

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF MISSISSIPPI
3 NORTHERN DIVISION

4 UNITED STATES OF AMERICA

5 vs.

Criminal Action No. 3:16CR54HTW-FKB

6
7 MARK LONGORIA

8
9
10 COURT REPORTER'S TRANSCRIPT OF SENTENCING HEARING

11 BEFORE HONORABLE HENRY T. WINGATE
12 UNITED STATES DISTRICT COURT JUDGE

13 February 13, 2017
14 Jackson, Mississippi

15
16 APPEARANCES:

17 MR. DARREN J. LAMARCA
18 Assistant United States Attorney

19 Representing the Government,
20 United States of America

21 MR. THOMAS M. FORTNER
22 Attorney at Law

23 Representing the Defendant,
24 Mark Longoria

25 COURT REPORTER:
Brenda D. Wolverton, RPR, CRR, FCRR
Jackson, Mississippi

1 THE COURT: Call your case, please.

2 MR. LAMARCA: Your Honor, the matter before the court
3 is United States versus Mark Longoria. This is Docket Number
4 3:16CR54. Mr. Longoria is present with his attorney, Tom
5 Fortner, and is present for sentencing to a plea to an
6 information, Your Honor.

7 THE COURT: All right. Will the defendant and counsel
8 approach the podium? All right. Make your announcement again,
9 Mr. LaMarca.

10 MR. LAMARCA: May it please the court, the matter
11 before the court is United States versus Mark Longoria, Docket
12 Number 3:16CR54. Mr. Longoria is present with his attorney,
13 Tom Fortner, Your Honor, for sentencing pursuant to a plea to
14 an information.

15 THE COURT: All right. Mr. Fortner?

16 MR. FORTNER: Yes, sir.

17 THE COURT: Have you discussed the presentence
18 investigation report with your client?

19 MR. FORTNER: I have, Your Honor.

20 THE COURT: And do you have any objections to the
21 presentence investigation report?

22 MR. FORTNER: We do, Your Honor.

23 THE COURT: All right. How many objections do you
24 have?

25 MR. FORTNER: We have two objections and a request

1 that the court grant a variance from the sentencing guidelines.

2 THE COURT: All right.

3 MR. FORTNER: Two specific objections.

4 THE COURT: Mr. Longoria, you can have a seat while
5 your attorney is submitting this matter to me.

6 THE DEFENDANT: Thank you, sir.

7 MR. FORTNER: Your Honor, do you wish me to explain my
8 objections and then put on testimony? I have a witness or two
9 witnesses to substantiate my objections. Do you want me to
10 briefly outline them?

11 THE COURT: Which one would you like to do?

12 MR. FORTNER: I think I could briefly outline each one
13 and then call my witness. I think I can do that fairly
14 quickly.

15 THE COURT: Why don't you do that?

16 MR. FORTNER: Yes, sir. Judge, the first objection
17 that we have to the presentence investigator's conclusions are
18 that -- is that the base offense level calculated by the
19 probation officer to be 30 is incorrect because the writer
20 over-calculated the total benefit received by Mr. Longoria as a
21 result of his activity as being \$361,225 when the total benefit
22 was, in fact, much less than that, \$191,389.91. If the court
23 accepted our position, it would result in a two-level decrease
24 in the base offense level for this case or the total offense
25 level for this case. That's the first objection.

1 The second objection is that the probation officer has
2 contended that restitution should be assessed against
3 Mr. Longoria in the amount of \$368,205.75. We object to that
4 and state categorically that that is incorrect and would put on
5 proof to show the court that regardless of Mr. Longoria's
6 illegal action in participating in this case, he actually --
7 his company actually saved the State of Mississippi a
8 substantial amount of money from what it otherwise would have
9 been required to pay for the same quality testing cup that his
10 company provided to the state.

11 So, in fact, he owes no restitution at all. And
12 illegal or not, his company's actions benefited the State of
13 Mississippi during fiscal year 2014. And we have a witness to
14 put evidence on to both of those points.

15 THE COURT: And how many witnesses do you have?

16 MR. FORTNER: One in particular on these issues, and
17 that's the CPA that works for the company.

18 THE COURT: All right. Let me turn to the
19 prosecution. How many witnesses do you have, if any?

20 MR. LAMARCA: Your Honor, depending upon what we hear
21 on direct examination, I imagine we would have one witness, and
22 that would likely be the case agent.

23 THE COURT: Okay. Mr. Fortner, call your witness.

24 MR. FORTNER: Your Honor, the defense would call
25 Elaine Makris.

1 **ELAINE MAKRIS,**
2 having first been duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MR. FORTNER:

5 Q Would you state your name, please?

6 A Elaine Makris.

7 Q Ms. Makris, how are you employed?

8 THE COURT: How do you spell your last name?

9 THE WITNESS: M-A-K-R-I-S.

10 THE COURT: Okay. Thank you.

11 BY MR. FORTNER:

12 Q How are you employed?

13 A I am the primary accounting manager, account manager and
14 bookkeeper of DTC Drug Testing Corporation since March 2015.

15 Q All right. So in the year of 2013 and the year of 2014,
16 you did not work for DTC. Is that correct?

17 A Correct.

18 Q And who works for DTC or worked for DTC when you were
19 hired?

20 A That would be Mark Longoria and some of the time Kimberly
21 Longoria.

22 Q And Kimberly Longoria is related to Mark Longoria in which
23 way?

24 A She is his wife.

25 Q Okay. You have to speak up.

1 A Okay. Yes, sir.

2 Q And could you point out Mark Longoria for us, please?

3 A Yes. Right here.

4 Q Is that the gentleman whose shoulder my hand is touching
5 right now?

6 A Yes, sir.

7 Q Okay. Thank you.

8 A You're welcome.

9 Q Elaine or Ms. Makris, were you asked by the United States
10 Attorney's Office, subpoenaed by the Federal Grand Jury to
11 bring certain documents and yourself here to Jackson,
12 Mississippi, when this case was first being investigated?

13 A Yes, sir. The company received the subpoena, and I acted
14 as a responsible party to gather those documents and bring
15 them.

16 Q And is that because you are the accountant/bookkeeper for
17 the company?

18 A Yes, sir.

19 Q And were those documents that you were asked to bring
20 documents that showed contractual arrangements and monetary
21 compensation and exchange of money between DTC and the
22 Mississippi Department of Corrections for fiscal year 2014?

23 A Yes, sir.

24 Q And did you supply those documents to the Federal Grand
25 Jury and to the United States Attorney's Office?

1 A Yes, we did.

2 Q And did you testify before the Federal Grand Jury?

3 A No. On that day on that hearing, we were here and prepared
4 to do that, but due to whatever proceedings happened, we were
5 not called. I just had a conversation with Mr. LaMarca after
6 the fact. But we did hand over the packet to them.

7 Q Okay.

8 A In those proceedings.

9 Q During the course of your conversations with Mr. LaMarca,
10 who is the Assistant U.S. Attorney, did you explain the
11 financial arrangements and contractual arrangements between DTC
12 and the Mississippi Department of Corrections for fiscal year
13 2014?

14 A We had a brief conversation but I wouldn't say that we went
15 through page by page.

16 Q Did the documents you provide give an explanation of those
17 relationships?

18 A It gave an explanation of the transactions very clearly
19 down to check copies and POs and invoices.

20 Q All right. And did you voluntarily provide all of those to
21 the U.S. Attorney's Office?

22 A Absolutely.

23 Q I'm going to show you a document --

24 MR. FORTNER: May I approach the witness, Your Honor?

25 THE COURT: Go right ahead.

1 BY MR. FORTNER:

2 Q -- and ask you if you can identify this document. You can
3 take it.

4 A Yes, sir, I can identify that.

5 Q What is that?

6 A This is a spreadsheet that I created that outlines what
7 DTC, Drug Testing Corporation, billed to the State of
8 Mississippi, and it compares it to what would have been paid if
9 the State of Mississippi had engaged the prior year's vendor
10 for the same product.

11 Q Okay. And were you aware of the engagement of the prior
12 year's vendor prior to fiscal year 2014, or did you make
13 yourself aware of that?

14 A I became aware of that during the due diligence we did
15 gathering these documents.

16 Q All right. Can you tell the court how much -- what the
17 cost of the drug cup testing service was to the State of
18 Mississippi Department of Corrections for the fiscal year 2013?

19 A The prior year -- make sure we are speaking of the same
20 timeframe, that I am answering your question to that timeframe.
21 The prior year, I don't know what they paid total, but I know
22 that the product cost they paid was \$9.40 per cup for the prior
23 year, the fiscal year '13.

24 Q And do you know how much that was for fiscal year '13
25 total, or do you not know?

1 A I would have to know the number of cups they bought, and I
2 only know what the PO was, so I can't say definitively.

3 Q But it was how much money per cup?

4 A It was \$9.40 per cup.

5 Q And what was the price of the cup that DTC sold per their
6 contract with the State of Mississippi for fiscal year 2014?

7 A That was \$5.95 per cup.

8 Q And do you know what the total amount was paid to DTC by
9 the Mississippi Department of Corrections for providing drug
10 testing cup equipment to the Department of Corrections for
11 fiscal year 2014?

12 A I do.

13 Q And what was that amount?

14 A \$782,276.25.

15 THE COURT: Would you repeat that, please?

16 THE WITNESS: \$782,276.25.

17 THE COURT: Okay.

18 BY MR. FORTNER:

19 Q Prior to that contract being let out for bid for 2014, was
20 there to your knowledge a purchase order presented by the
21 previous year's contractor for the Mississippi Department of
22 Corrections to buy the same services for 2014?

23 A Yes, sir. There was a purchase order.

24 Q And was that in the form of a purchase order?

25 A It was, yes.

1 Q And how much did the 2013 provider fill out the purchase
2 order for fiscal year 2014 for the State of Mississippi to pay?

3 A That purchase order was for \$999,925.

4 Q All right. So now, what was the total amount of the monies
5 paid by the State of Mississippi to Drug Testing Corporation
6 for fiscal year 2014?

7 A 782,276.25.

8 Q And what was the total amount that they would have paid to
9 the previous provider for 2014 per that purchase order?

10 A Per the purchase order, it would have been 999,925.

11 Q And is that a difference of over \$200,000?

12 A Yes, sir.

13 Q Okay.

14 MR. FORTNER: May I approach, Your Honor?

15 THE COURT: You may.

16 MR. FORTNER: Your Honor, we would like to ask that
17 this document be marked as an exhibit to the witness'
18 testimony.

19 THE COURT: Any objection?

20 MR. LAMARCA: Your Honor, I would like to voir dire
21 the witness before, so we would object.

22 THE COURT: Then I will hold making a ruling until
23 after cross-examination.

24 MR. FORTNER: May I mark this for identification
25 purposes?

1 THE COURT: What's the number on there?

2 MR. FORTNER: It was not premarked, Your Honor.

3 THE COURT: All right. Why don't you make it D-1
4 then.

5 MR. FORTNER: D-1 for identification?

6 THE COURT: D-1 for identification.

7 MR. FORTNER: May I approach?

8 THE COURT: Yes, please. Thank you. D-1 for I.D.
9 only.

10 (EXHIBIT D-1 MARKED)

11 BY MR. FORTNER:

12 Q Ms. Makris, can you tell us what other documents you
13 brought with you in response to that subpoena?

14 A Yes, sir. We prepared a packet that had the subpoena copy.
15 It had the contract with M.D.O.C. That was the contract with
16 DTC and M.D.O.C.

17 Q Was that for fiscal year 2014?

18 A Yes, sir. It had letters from the M.D.O.C. explaining the
19 state's choice based upon the bid specifications. It had a
20 contract profit and loss statement or income statement that
21 showed the revenue or the sales less the direct costs, less
22 also the costs to Mr. McCrory, Investigative Research. And it
23 had supporting documents with shipping schedules for the
24 product, supplier invoices. It had materials about the drug,
25 scientific details. It had comparative scientific details of

1 the cup that was not chosen. It had the contractor agreement
2 that DTC had with Mr. McCrory, and it had copies from Drug
3 Testing Corporation to Investigative Research.

4 Q Now, are those all the documents that you have brought with
5 you today that you have just described to the court?

6 A I did bring these with me today that I had brought last
7 summer. The additional document is the spreadsheet you and I
8 just reviewed. That was not developed in that packet.

9 Q May I see these, please?

10 A Yes, sir.

11 MR. FORTNER: Your Honor, we would like to ask that
12 these documents be marked as a defense exhibit for --

13 THE COURT REPORTER: I'm sorry. I can't hear you.

14 MR. FORTNER: I'm sorry. We ask that these documents
15 described by Ms. Makris be admitted as a composite exhibit for
16 identification purposes subject to Mr. LaMarca's voir dire of
17 the witness.

18 THE COURT: Okay. They will be marked for
19 identification. Composite exhibit.

20 (EXHIBIT D-2 MARKED)

21 BY MR. FORTNER:

22 Q Ms. Makris, according to the documentation that you have
23 and your understanding from reviewing documents concerning the
24 2014 contract between DTC, Investigative Research, Inc. and the
25 Mississippi Department of Corrections, what was Investigative

1 Research, Inc.? What was that company?

2 A That was a consulting firm.

3 Q And was that the consulting firm that is associated with
4 one man named Cecil McCrory?

5 A Yes, sir.

6 Q Did DTC have a contract with Investigative Research, Inc.,
7 to facilitate contractual agreements with the Mississippi
8 Department of Corrections?

9 A Yes, sir.

10 Q And what contract or contracts did Investigative Research,
11 Inc., assist DTC in facilitating with the Mississippi
12 Department of Corrections?

13 A The contract of supplying the drug testing cups.

14 Q Was there any other contract between -- any other contract
15 negotiated or facilitated by Investigative Research with the
16 M.D.O.C. on behalf of Drug Testing Corporation?

17 A No, sir.

18 Q Was there any other contract facilitated or initiated by
19 Investigative Research, Inc., on behalf of DTC with any other
20 agency within Mississippi that you are aware of?

21 A No, sir.

22 Q Was the entire amount -- what was the entire amount paid to
23 DTC to Investigative Research/Cecil McCrory by DTC?

24 A 229,835.14.

25 Q And what was the cost of the product provided by DTC to the

1 Mississippi Department of Corrections?

2 A \$421,051.21.

3 Q Was there any other money paid by DTC to Investigative
4 Research for any other services whatsoever that you are aware
5 of?

6 A No, sir.

7 Q There is no record of any payments other than those
8 payments you have just described. Is that correct?

9 A That is correct.

10 Q Did DTC in fiscal year 2014 enter into a competitive
11 bidding process for the M.D.O.C. drug testing program for that
12 fiscal year?

13 A Yes, sir.

14 Q And did DTC submit a bid?

15 A Yes, sir.

16 Q Do you know how much per cup that bid was?

17 A \$5.95.

18 Q Were there any other bids that you're aware of that were
19 also submitted?

20 A Yes, there were.

21 Q And what were those bids?

22 A The ones I know of are U.S. Diagnostics.

23 Q And how much was that bid?

24 A That one I don't have on my spreadsheet, but I believe it
25 was significantly lower.

1 Q And was there another bid?

2 A There was another one that was slightly higher.

3 Q So there were -- were there at least three bids that you
4 are aware of?

5 A That's what I'm aware of, yes, sir.

6 Q And U.S. Diagnostics was the lowest of the three bids. Is
7 that correct?

8 A Correct.

9 Q In the paperwork that has now been marked as Exhibit 2 for
10 identification purposes -- Defendant's Exhibit 2 for
11 identification purposes, are there explanations by officials
12 with the Department of Corrections rejecting the U.S.
13 Diagnostics' lowest bid?

14 A Yes, sir.

15 Q And do those documents set forth specific reasons for
16 rejecting U.S. Diagnostics' lower bid?

17 A Yes, sir.

18 Q And are those reasons -- would it be fair to say that those
19 reasons are because U.S. Diagnostics' lower bid did not meet
20 the bid specifications set by the State of Mississippi for the
21 product that they wanted to buy?

22 A That's correct.

23 Q Let me ask you this, Ms. Makris. The drug cups provided by
24 DTC in 2014 at a lower price than the drug cups that were
25 provided in 2013 to the Mississippi Department of Corrections,

1 were those the same product?

2 A Yes, sir. They were the same.

3 Q Okay. Did they operate the same way? Did they work the
4 same way?

5 A They worked exactly the same.

6 Q Did they meet the same bid specifications that Mississippi
7 had paid \$9 and something for a year earlier in 2013?

8 A Yes, sir.

9 Q All right. Regardless of how the bid was obtained, what
10 happened with that as far as from a numbers standpoint, an
11 accounting standpoint? Did DTC save the State of Mississippi
12 money in 2014 for the same product that the state had paid for
13 in 2013?

14 A Yes, sir.

15 Q Did it cost the State of Mississippi 369,000 more dollars
16 for DTC to provide that 2014 product than it had cost them in
17 2013?

18 A Not in comparison, no, sir.

19 Q In fact, it was over \$200,000 less. Is that correct?

20 A Yes, sir.

21 Q Now, assuming based on your spreadsheet that Investigative
22 Research was paid by DTC \$229,835.14 for their services in
23 obtaining the drug cup testing contract for 2014, assuming
24 that's correct, and assuming that \$60,000 was paid by
25 Investigative Research/Cecil McCrory, to Commissioner Epps,

1 assuming that to be true, how much money did Investigative
2 Research actually receive or actually -- would it be \$229,000
3 roughly minus \$60,000?

4 A Yes, sir, because that was passed on. The 60 was passed on
5 to someone else.

6 Q Okay. So would it be fair to say that Investigative
7 Research retained \$169,835.14 as payment for its consulting
8 services once it paid \$60,000 to Commissioner Epps?

9 A Yes, sir.

10 Q Okay. Was there any indication in your books that DTC paid
11 Investigative Research any other sum of money?

12 A No, sir, none at all.

13 Q And was there any indication in your books that DTC paid
14 any sum of money directly to Commissioner Epps?

15 A No, sir.

16 Q And did -- I know this may be repetitious, but did DTC pay
17 Investigative Research for any other service whatsoever other
18 than the obtaining of the contract in question in this case?

19 A No, sir.

20 MR. FORTNER: May I have just one minute, Judge?

21 THE COURT: Okay.

22 (SHORT PAUSE)

23 MR. FORTNER: Your Honor, we will tender the witness.
24 Thank you.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. LAMARCA:

Q Ms. Makris, I'm Darren LaMarca. You and I met back in June. Was it not?

A Yes, sir.

Q And you had at that time complied with the subpoena that was issued by the court actually. It was not a grand jury subpoena but a subpoena nonetheless. You complied with it. Correct?

A Yes, sir.

Q And you brought to me on behalf of that subpoena that was issued a set of documents with a cover letter addressed to me with the actual subpoena included as well and then a set of documents complying with that. Right?

A Yes, sir.

Q Okay.

MR. LAMARCA: May I approach, Your Honor?

THE COURT: You may.

BY MR. LAMARCA:

Q Take a look at that and see if that is the entire set of documents that you recall bringing to the court in response to that subpoena.

A Yes, sir, it is.

MR. LAMARCA: Your Honor, I ask that it be admitted as Government's Exhibit 1.

1 THE COURT: Any objection?

2 MR. FORTNER: I don't have any objection, Judge.

3 THE COURT: All right. G-1 is admitted.

4 (EXHIBIT G-1 MARKED)

5 MR. LAMARCA: Your Honor, these documents would
6 include D-2. So in that respect, the government would have no
7 objection to D-2.

8 THE COURT: Then D-2 is admitted. The term for
9 identification is deleted with regard to D-2.

10 (EXHIBIT D-2 MARKED)

11 BY MR. LAMARCA:

12 Q Now, with regard to D-1, Ms. Makris, do you remember
13 that -- where Mr. Fortner was asking you a few questions about
14 the prior year's bid and the winning bid for I think Brannon?

15 A Yes, sir.

16 Q And that's this document for identification only. Is that
17 the document that Mr. Fortner was talking to you about earlier?

18 A Is what you are looking at supposed to be on the screen?

19 MR. LAMARCA: It should be on your screen.

20 THE COURT: It's not on hers.

21 BY MR. LAMARCA:

22 Q Is that the document that Mr. Fortner was talking to you
23 about?

24 A Yes, sir.

25 Q That was not something you produced in response to the

1 subpoena. Right?

2 A Correct. This was not produced at that time.

3 Q All right. And the first time you have actually produced
4 it to me would be 15 minutes ago?

5 A Yes, sir.

6 Q All right. Now, you've taken --

7 A Could I clarify something?

8 Q Sure.

9 A The middle section where it has DTC activity in it was part
10 of the packet I had presented to you. The comparison part was
11 not.

12 Q True, in a --

13 A Yes, sir.

14 Q In a different format?

15 A Yes, sir.

16 Q Let's talk about then this document that was produced for
17 the first time today. Right?

18 A Yes, sir.

19 Q And you received -- and I went ahead and circled -- do you
20 see that right there, the amounts that you referenced earlier
21 about how the State of Mississippi actually did not lose
22 anything but saved a lot of money. Do you recall those
23 questions?

24 A Yes, sir.

25 Q All right. Now, that was for the previous year. Is that

1 right?

2 A That represents a purchase order that was given for the
3 year that DTC actually engaged in the transaction, but the
4 pricing that is set forth in that purchase order was
5 referencing the previous year's product.

6 Q So is that the pricing for the previous year?

7 A Yes, sir.

8 Q Okay. Now, the pricing for the current year, the year
9 we're actually talking about when DTC won the bid, is half of
10 that roughly. Is that right?

11 A Yes.

12 Q So for the year that DTC won the bid, DTC's bid was 495.
13 Is that right?

14 A It was 595.

15 Q I'm sorry. 595.

16 A Yes, sir.

17 Q And Brannon or Redwood Toxicology was actually \$6. Is that
18 right?

19 A Yes, sir.

20 Q Now, did Brannon -- Brannon was the manufacturer of the
21 cups. Is that true?

22 A Yes, sir.

23 Q So DTC purchases the cups from Brannon and then sells them
24 by bid if accepted by the State of Mississippi. Is that right?

25 A Yes, sir.

1 Q Okay. And you looked to see that Brannon, the actual
2 company that manufactures the cups, was also selling to whom?
3 Redwood? Or not?

4 A I don't know if it was -- if that was the nature of the
5 relationship between Brannon and Redwood. I don't know that
6 that was the structure of their relationship. I am not
7 familiar with if Redwood was owned by Brannon or a subsidiary
8 or joint venture. I'm not familiar with that relationship, so
9 I can't say that they sold to Redwood particularly.

10 Q Okay. Do you know if Mr. Longoria ever worked with -- for
11 Brannon?

12 A He did.

13 Q He did?

14 A Uh-huh.

15 Q Did he ever work with Redwood Toxicology?

16 A I do not know.

17 Q Now, U.S. Diagnostics had submitted a bid of 298?

18 A I believe it was 2 something. I don't have the exact
19 number in front of me. We do have it somewhere.

20 Q Would you accept 2.98 if that were, in fact, the case?
21 Would you like to ask Mr. Fortner?

22 A Yes, sir.

23 Q Okay.

24 MR. FORTNER: Uh-huh. Yes.

25 THE WITNESS: So, yes, I accept that.

1 BY MR. LAMARCA:

2 Q All right. With Mr. Fortner's concurrence, you are good
3 with 2.98?

4 A Yes, sir.

5 Q All right. Now, had the product been sold to the State of
6 Mississippi through U.S. Diagnostics, the State of Mississippi
7 would have saved a lot of money compared to purchasing the cups
8 for 5.95. Is that right?

9 A They would have saved on the transaction itself, but there
10 are other issues that would have had costs associated with them
11 whereas that are part of that conversation.

12 Q Such as the training of employees on a new product. Is
13 that right?

14 A No, sir.

15 Q Okay. Do you remember producing to me this document here
16 that was part of Government's Exhibit 1 that explains why U.S.
17 Diagnostics' ProScreen drug test cup would not be sufficient?

18 A Yes, sir.

19 Q Okay. And is that not at the bottom of why it would not be
20 sufficient would be they had to train employees on the new
21 product? Do you see that? Number 5?

22 A Uh-huh.

23 Q Is that -- did I misstate it, or am I correct?

24 A There are two types of training and conversation about drug
25 testing, and one has to do with clear waiver, and I was

1 thinking of that when you asked that question.

2 Q All right. So back to my question. You said there would
3 be other issues that would not -- that would actually cost the
4 state some additional monies as opposed to just the 2.98 per
5 cup. Is that right?

6 A Yes, sir.

7 Q So I was asking you if any of those other issues would have
8 been the training of new people or people on the use of this?

9 A So the answer is yes. The training would have been part of
10 the additional cost to the state.

11 Q All right. And 1 through 5 was sent by the
12 commissioners -- several commissioners on behalf of M.D.O.C. to
13 the Department of Finance justifying why the \$5.95 per cup cost
14 of DTC is a much better way to go than the \$2.98 cost for U.S.
15 Diagnostics. Right?

16 A Yes, sir.

17 Q Do you know where this information that was obtained by
18 these commissioners as to why U.S. Diagnostics' cups would not
19 perform as well or why they would not be as cost efficient,
20 where that information came from?

21 A Specifically, no. I mean I don't know each -- like the
22 conversations they had specifically that led to this document.

23 Q Do you know whether Mr. Longoria sent an e-mail to
24 Mr. McCrory at Investigative Research with this information in
25 it explaining to Mr. McCrory why U.S. Diagnostics' cups would

1 not be cost efficient? Do you know that?

2 A I don't know about an e-mail, but I do know that his input
3 was received by the state.

4 THE COURT: Whose input?

5 THE WITNESS: Mr. Longoria's.

6 THE COURT: Okay.

7 THE WITNESS: Technical input.

8 BY MR. LAMARCA:

9 Q Have you had occasion to review the e-mails of Mr. Longoria
10 to Mr. McCrory regarding the awarding or the request for
11 proposal of the contract awarded to DTC in 2013?

12 A No, sir.

13 Q So when we look at the cost savings for the Mississippi
14 Department of Corrections, you're telling the court we should
15 not look at the numbers for the year 2013, that would be
16 beginning August 1 of 2013 on, but actually as to all these
17 other reasons as to why U.S. Diagnostics should not apply as
18 reflected in the letter of August 15th, 2013. Is that true?

19 A I kind of lost the question.

20 Q We shouldn't look at just numbers?

21 A Correct. Correct. They are performance -- mainly
22 performance aspects.

23 Q Now, do you -- you had nothing to do with the performance
24 aspects of what the Mississippi Department of Corrections was
25 looking for when it bid these cups?

1 A I didn't at that time. I have become more knowledgeable
2 about it since then.

3 Q All right. In other words, you had nothing to do with or
4 have any input into the performance aspects of the cups that
5 M.D.O.C. was requesting. Is that true?

6 A I did not personally, no.

7 Q Do you know whether Mr. Longoria did?

8 A That he had input into the Department of M.D.O.C.'s
9 requirements for or the technical attributes of the cups? He
10 did. Yes.

11 Q He did?

12 A Yes, sir.

13 Q So that his company would actually be the one that could
14 complete or fulfill the contract to the exclusion of others?

15 A No, sir, I disagree.

16 Q How do you know that?

17 A Well, what I know is that everything that was presented to
18 the Department of Corrections for Mississippi and other
19 corrections and customers, private and public alike, has to do
20 with the output and the result that's going to be delivered by
21 his products. And if I could go on, I will state that even
22 before my work with DTC, I have been in the business of writing
23 and responding to RFPs and bids for about a decade. One of the
24 things that stand out is that very often bid writers are
25 experts in procurement and not necessarily experts in the

1 subject matter of what they are seeking proposals for, and the
2 input given by DTC to the authorities in this case empowered
3 them to have an effective product that would have the least
4 risk safety-wise to the inmates and employees alike. And
5 that's my perspective on not just this bid but the way that the
6 business is conducted.

7 Q So are you telling the court that U.S. Diagnostics' cups
8 would not fulfill the mission of M.D.O.C. in screening inmates?

9 A Yes, that's what I'm saying.

10 Q And so it was a matter of Mr. Longoria explaining to his
11 consultant, Mr. McCrory, just what needed to be in the
12 proposal, the request for bids, by M.D.O.C.?

13 A If he asked that question, Mark would answer that question
14 and then he would go into exact detail as to why, because of
15 his scientific background.

16 Q Now, when Mr. Longoria -- well, let me ask it this way. If
17 Mr. Longoria asked or told Mr. McCrory, *If you include these*
18 *things, I will get the bid and no one else will --*

19 MR. FORTNER: Your Honor, that's assuming facts not in
20 evidence.

21 THE COURT: That's rather speculative. Go to another
22 question.

23 MR. LAMARCA: May I have just a moment, please, Your
24 Honor?

25 THE COURT: Okay.

1 (SHORT PAUSE)

2 MR. LAMARCA: May I have the court's indulgence,
3 please? I would like to play a recording for the witness.

4 THE COURT: Okay.

5 (SHORT PAUSE)

6 MR. LAMARCA: May it please the court?

7 THE COURT: Okay. Go right ahead.

8 MR. LAMARCA: Thank you.

9 BY MR. LAMARCA:

10 Q Ms. Makris, do you remember me showing you the explanation
11 from the commissioners with regard to why they should not
12 accept the low bid from U.S. Diagnostics that you had produced?

13 A Yes, sir.

14 Q Let me show you what's been marked Government Exhibit 2.
15 Do you see that in front of you?

16 A Yes, sir.

17 Q Do you see that that's in August of 2013?

18 A Yes, sir.

19 Q And do you see that that is an e-mail from Commissioner
20 Epps to Mr. Longoria?

21 A Yes, sir.

22 Q And that it says, *Thanks, Chris Epps, Commissioner?*

23 A Yes, sir.

24 Q Do you see the e-mail beneath that that says August 14th,
25 2013, at 6:51 p.m.?

1 A Yes, sir.

2 Q Okay. Which predates or I shouldn't say predates but it is
3 a couple hours prior to Mr. Epps thanking Mr. Longoria?

4 A Yes, sir.

5 Q And you see that Mr. Longoria is telling the commissioner
6 why U.S. Diagnostics does not meet and other important reasons
7 not to go with the lowest priced product?

8 A Yes, sir.

9 Q And those are his reasons as to why he should not go with
10 the lower priced product. Right?

11 A Yes, sir.

12 Q And those along with Paragraph 2 and Paragraph 1 of the
13 commissioner's are verbatim. Are they not?

14 A Yes, sir.

15 Q Okay. Now, at the time that this was being sent, were you
16 employed at Drug Testing?

17 A No, sir.

18 Q So you don't know the relationship between Mr. Longoria,
19 Mr. McCrory and Mr. Epps. Do you?

20 A No, sir.

21 Q You were not aware that Mr. Longoria had discussed with
22 Mr. McCrory that if they win this bid Mr. Epps would get money?

23 MR. FORTNER: We would object, Your Honor. That also
24 assumes facts not in evidence.

25 MR. LAMARCA: Your Honor, he pled guilty to that, and

1 I think that was part of the plea colloquy.

2 THE COURT: The objection is overruled.

3 BY MR. LAMARCA:

4 Q You're not aware of that, are you?

5 A No, sir.

6 Q Have you been made aware of that?

7 A Have I been made aware of that?

8 Q Yes, ma'am.

9 A Of a relationship?

10 Q Correct.

11 A Between --

12 Q A relationship of money that originates with the Department
13 of Finance with the State of Mississippi paid to DTC, paid to
14 Mr. McCrory and then funneled back to Mr. Epps.

15 A Only in the course of this case.

16 Q So the answer would be yes, you have been made aware of
17 that?

18 A Yes.

19 Q Now, on that same e-mail that I have just shown you that I
20 have marked as Government's Exhibit 2 for identification, let's
21 go to the next page of that e-mail. Do you see that, the
22 signature or the sender's line being Mark Longoria?

23 A Yes, sir.

24 Q Now, do you have any explanation as to why under it it
25 would say Redwood Toxicology?

1 A I wasn't there at that time, so I don't know his job
2 transition scenario at that time, but I do know that he left
3 the corporate employment scenario in that general timeframe,
4 and I know that certain companies were bought out by certain
5 other companies, and I can only speculate that this is part of
6 that perhaps.

7 Q Okay. So the answer would be you don't know?

8 A I don't know. Correct.

9 Q All right.

10 A Like I said earlier.

11 Q Because I asked you earlier about Redwood Toxicology and
12 what relationship he had, and you didn't know of any.

13 A Correct.

14 Q All right. Because Redwood Toxicology was also the company
15 that made the bid a nickel higher than DTC. Is that right?

16 A Yes.

17 Q For this August 2013 contract. Right?

18 A Yes.

19 Q All right. Do you know if the bid that was sent to the
20 Mississippi Department of Corrections by Redwood Toxicology
21 noted Mr. Longoria's relationship with Redwood Toxicology?

22 A I don't have any knowledge of that either way.

23 Q If I see this correctly, it actually shows Mr. Longoria's
24 e-mail address being an e-mail at Redwood Toxicology. Is that
25 right?

1 A That's what that shows, yes, sir.

2 Q And he is sending a reason to -- this explanation to Mr.
3 Epps as to why his company should get this bid as opposed to
4 U.S. Diagnostics. Right?

5 A He is explaining the reason that the product attributes of
6 one wouldn't meet the requirements.

7 Q Now, we do know that Redwood Toxicology submitted a higher
8 bid than Drug Testing Corporation. Right?

9 A That's what I have learned in this process, yes, sir.

10 Q Right. You testified earlier that they submitted a bid one
11 nickel higher per cup?

12 A Yes, sir.

13 Q All right. I'm going to play you a recording, and see if
14 you recognize the voices on that recording. Okay?

15 A Okay.

16 Q And I'm going to play you a recording from July 8th of
17 2014. All right? It has been produced to defense counsel
18 previously.

19 MR. LAMARCA: Your Honor, is the sound system on
20 through the recording? Your Honor, my laptop has begun to
21 reboot.

22 (SHORT PAUSE)

23 BY MR. LAMARCA:

24 Q I digress. Ms. Makris, I'm going to play you a recording
25 from May 21 of 2014.

1 A Okay.

2 Q You recall based on the production that you made that there
3 was a second bid or purchase order I should say from the State
4 of Mississippi for additional cups. Right?

5 A Yes, sir.

6 Q That was in -- somewhat contemplated as a possibility by
7 the initial contract in August of 2013. Right?

8 A Contemplated by? I'm not following you.

9 Q An additional set of drug testing cups were purchased by
10 the State of Mississippi?

11 A Yes, sir. It was the bridge order because they needed more
12 to have enough product to finish the fiscal year before a new
13 hypothetically contract would begin, yes, sir.

14 Q Before they would have to bid out another contract?

15 A Yes.

16 Q They needed this to -- you called it a bridge order.

17 A Yes, sir, and that was also included in the numbers we
18 provided earlier.

19 Q Right. Exactly. Okay. Let me ask you to listen and tell
20 me if you recognize --

21 THE COURT: We will be in recess for 10 minutes.

22 (RECESS)

23 THE COURT: All right, Mr. LaMarca.

24 MR. LAMARCA: Thank you, Your Honor.

25 BY MR. LAMARCA:

1 Q Ms. Makris, before we broke, we were going to ask you to
2 see if you recognize the voices on this recording from May 21
3 of 2014. All right? Which is prior to the bridge loan. Is it
4 not?

5 A I believe so, yes.

6 Q I say bridge loan? Bridge sale.

7 A Bridge order, yes, and transaction, yes. What was the date
8 you said?

9 Q May 21, 2014.

10 A I think it was around that same time.

11 Q Okay. All right. Let me ask you if you recognize this
12 voice or either of these voices.

13 (Recording played.)

14 BY MR. LAMARCA:

15 Q Do you recognize that voice?

16 A Yes, sir.

17 Q And who is that?

18 A Mark Longoria.

19 Q Okay. You don't recognize the other voice?

20 A No, sir.

21 Q Okay. Let's go on a little further. We know the date of
22 the phonecall. Right? 5-21, 2014?

23 A Yes, sir. Uh-huh.

24 (Recording played.)

25 BY MR. LAMARCA:

1 Q Who is Redwood and Alere? Do you know?

2 A In relation to this scenario, no. I mean I know that they
3 are providers of drug testing products.

4 Q Okay.

5 (Recording played.)

6 BY MR. LAMARCA:

7 Q Now that you have heard that, do you believe that the
8 product that was produced by DTC for the price that they
9 produced it was a good deal for the state?

10 A I can't make that assumption, no.

11 Q All right. Or that the state saved money?

12 A I still believe that they saved money, yes, sir.

13 Q And you do know that Redwood Toxicology was the bid that
14 was a nickel higher than DTC. Right?

15 A I believe so, yes.

16 Q You testified to that previously?

17 A Yes, sir.

18 Q Okay.

19 A What I just heard, though, it's confusing to me, so I mean
20 there were a lot of nuances to it, so I don't --

21 Q You had not heard this before?

22 A No, sir.

23 (Recording played.)

24 BY MR. LAMARCA:

25 Q Do you have any idea what he is talking about *if this thing*

1 goes back out?

2 A I presume it means if it goes to an open bid process, at
3 which it would go on to bid portals, bid sync and so on and so
4 forth and all the distributors of all products would be able to
5 supply a bid to it.

6 Q All right.

7 MR. LAMARCA: Your Honor, we would ask -- this is --
8 would be G-3 marked for identification, and we will ask that it
9 be admitted through later testimony, may it please the court?

10 THE COURT: Any objection to G-3?

11 MR. FORTNER: No, Your Honor.

12 THE COURT: Admitted. G-3.

13 (EXHIBIT G-3 MARKED)

14 MR. LAMARCA: Thank you. May I have one moment,
15 please?

16 THE COURT: Okay.

17 (SHORT PAUSE)

18 MR. LAMARCA: No further questions, Your Honor.

19 THE COURT: All right. Redirect.

20 MR. FORTNER: Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MR. FORTNER:

23 Q Can you see what I have got on the screen in front of you?

24 A Yes, sir.

25 Q Is that the letter that was written that's been admitted

1 into evidence now setting forth five reasons why the U.S.
2 Diagnostics bid was -- did not meet bid specifications?

3 A Yes, sir.

4 Q And as far as you know -- now you were not involved in that
5 process at that time. Is that correct?

6 A Correct.

7 Q You did not work for Mr. Longoria or for DTC at that time?

8 A Correct.

9 Q But as far as you know and are aware, is there anything
10 false in this document?

11 A No, sir.

12 Q Did U.S. Diagnostics' bid, in fact, not meet the bid
13 specifications based upon the five reasons set forth in this
14 document?

15 A That is accurate, yes.

16 Q And if the State of Mississippi had accepted U.S.
17 Diagnostics' bid for that fiscal year, would they have been
18 accepting a bid that did not meet the bid specifications
19 required by the Department of Corrections?

20 A That is correct.

21 MR. FORTNER: Your Honor, that's all the questions I
22 have of this witness.

23 THE COURT: All right. You can step down. Call your
24 next witness.

25 MR. FORTNER: Thank you. We call Mark Longoria, Your

1 Honor.

2 **MARK LONGORIA,**

3 having first been duly sworn, testified as follows:

4 **DIRECT EXAMINATION**

5 BY MR. FORTNER:

6 Q Would you tell us your name, please?

7 A Mark Longoria.

8 Q Mr. Longoria, were you a participant in a company called
9 Drug Testing con-- what's the name?

10 A Drug Testing Corporation, yes, sir.

11 Q And did you, in fact, earlier plead guilty in this court to
12 a conspiracy charge concerning a contract entered into between
13 Drug Testing Corporation and the Mississippi Department of
14 Corrections for fiscal year 2013?

15 A '14.

16 Q '13 or '14?

17 A '13 to '14.

18 Q Mr. Longoria, what exactly did DTC do? What sort of
19 products -- how long have you been working in this business?

20 A I have been working in this business approximately 27
21 years, sir.

22 Q And is Mississippi the only state that you have done
23 business with over the last 27 years?

24 A No, sir. All over the United States.

25 Q There have been various companies' names mentioned during

1 the course of this hearing so far. Are you familiar with those
2 companies?

3 A Absolutely.

4 Q Redwood Toxicology?

5 A Yes, sir.

6 Q What other are some of the companies involved --

7 A Redwood, Alere, Incell Technologies, U.S. Diagnostics.
8 They are all either distributors or manufacturers. Brannon
9 manufactures drug testing products.

10 Q All right. And do you -- as DTC, did DTC buy products from
11 different manufacturers?

12 A We do.

13 Q Did you and do you do business with different
14 manufacturers?

15 A Absolutely.

16 Q Let's talk for a moment about your -- the last 15 years of
17 your professional life. You started DTC at what time?

18 A 2000.

19 Q During the course of owning and operating DTC, did you work
20 for other companies also?

21 A Yes, I did.

22 Q For instance?

23 A Brannon Medical Corporation.

24 Q How long did you work for Brannon Medical?

25 A 13 years.

1 Q Were there any other companies that you worked directly
2 for?

3 A No, sir.

4 Q Did you ever work for Redwood Toxicology?

5 A Well, the way that I need to answer that is this: Alere
6 Toxicology bought Brannon Medical, the company that I worked
7 for at that time of this bid. They also owned Redwood
8 Toxicology. They also owned Pro Laboratories, Icup Instant
9 Technologies. They were buying up all kinds of different
10 manufacturers and laboratories at that time.

11 Q And what company was buying them up?

12 A Alere Toxicology. So they bought Brannon Medical, and I
13 worked for Brannon Medical. I was the director for national
14 accounts. I handled all the government contracts in Louisiana,
15 Mississippi, Virginia, West Virginia, Illinois, Indiana for
16 drug testing.

17 Q And you have seen the e-mail that was put on the screen
18 introduced into evidence by the government of the exchange you
19 had with Commissioner Epps, an e-mail exchange. Is that
20 correct?

21 A Yes, sir.

22 Q With an address from you of Redwood Toxicology?

23 A Yes, sir.

24 Q Can you explain that to the court?

25 A I can. When Alere Toxicology bought Brannon Medical, I was

1 an employee of Brannon Medical still, but my job was to assign
2 all state contracts. All criminal justice drug testing was
3 going to be run through -- not through Brannon anymore but
4 through Redwood Toxicology out of Redwood, California. So my
5 job, all the state contracts that I had, I had to then assign
6 them, which is not -- it takes some time and they may not even
7 want to change the company from Brannon to Redwood, but my job
8 was to get all government contracts changed over to Redwood
9 Toxicology. Whichever contracts they deemed, those were the
10 ones that needed to go through Redwood Toxicology, through that
11 distribution and manufacturing and everything through that
12 distribution branch.

13 Q Mr. Longoria, what company was directing you to do that?

14 A Alere Toxicology. They were the parent company. They
15 owned all the companies at the time.

16 Q They bought everybody?

17 A Right. So I was working for Brannon and I was assigning
18 state contracts for Alere over to Redwood because they owned
19 both Brannon and Redwood.

20 Q And were there other professionals in the field such as you
21 who were in the same situation?

22 A Yes, sir.

23 Q And at that time did you also own and operate Drug Testing
24 Corporation?

25 A Yes, sir.

1 Q And were you continuing to bid on contracts in different
2 states on behalf of Drug Testing Corporation?

3 A Yes, I did.

4 Q Did you do business in other states besides Mississippi as
5 DTC?

6 A Yes, sir.

7 Q And at the same time were you working for Alere, i.e.
8 Redwood Toxicology?

9 A Brannon Medical, but the parent company that bought us was
10 Alere. So technically I was an employee of Alere Toxicology.

11 Q Let me ask you something. How does someone like
12 Commissioner Chris Epps or someone like Consultant Cecil
13 McCrory or some other Commissioner of the Department of
14 Corrections in some other state know about the specifics and
15 the specifications of a drug testing cup? How do they know
16 about that?

17 A They know that through the professionals that work in that
18 industry that understand the toxicology, the technology, the
19 health and human resources, regulatory, the FDA guidelines.
20 All those products are regulated by the FDA.

21 Q Let me ask you --

22 A Yes, sir.

23 Q -- do you as the contractor or the owner of DTC and the
24 person who is trying to sell that product, do you provide that
25 information to Commissioners of Department of Corrections

1 around the country?

2 A Everybody we're trying to sell to, yes, sir.

3 Q Do you provide that to consultants who you might work with
4 in different states?

5 A Yes, sir.

6 Q All right. Do companies such as your own also hire
7 consultants in different states to try to attempt to get the
8 business of those Departments of Correction?

9 A Yes, sir.

10 Q Okay. Did you do that in Mississippi?

11 A Yes, sir.

12 Q And did you -- and in doing that, did you hire
13 Investigative Research, Inc., owned by Cecil McCrory?

14 A Yes, sir.

15 Q All right. Now, how would Cecil McCrory or Commissioner
16 Epps know what type of drug testing cup might best suit their
17 needs?

18 A They would find out that from manufacturer's
19 representatives like myself.

20 Q And as a manufacturer's representative, do you go to trade
21 shows that are attended by Department of Corrections
22 Commissioners?

23 A Absolutely. ACA, APPA, National Association of Drug
24 Courts. All corrections, community corrections.

25 Q Tell the court -- you have to slow down a little bit.

1 A Okay. Tell.

2 Q The court what does ACA stand for?

3 A The American Correctional Association.

4 Q And does the American Correctional Association engage in
5 accreditation policies for Departments of Corrections around
6 the country?

7 A Absolutely.

8 Q And at least while you were working with Mississippi
9 Department of Corrections, were they accredited by ACA?

10 A Yes, sir.

11 Q And what exactly is the Clinical Laboratory Improvement
12 Act?

13 A CLIA, the Clinical Laboratory Improvement Act, is an arm of
14 health and human resources. And what they do is they regulate
15 different types of medical testing, like drug testing.

16 Q And is CLIA overseen or are they a subset of the Food and
17 Drug add -- the United States Food and Drug Administration?

18 A As I know it, under the Health and Human Services of the
19 United States, yes.

20 Q But it is a federal agency. Is that correct?

21 A Yes, sir.

22 Q It is a federal act. Is that correct?

23 A Yes, sir.

24 Q In order to maintain accreditation by the American
25 Corrections Association, is the drug testing -- are the drug

1 testing products used by a Department of Corrections, must they
2 be CLIA certified or approved or CLIA waived, one or the other?

3 A Yes, sir.

4 Q All right. To your knowledge was U.S. Diagnostics' drug
5 cup, their drug testing procedure that was bid lower than your
6 bid for fiscal year 2013-2014, was it a CLIA waived or CLIA
7 approved product?

8 A No, sir.

9 Q If Mississippi had accepted that bid, would they have been
10 in violation of CLIA?

11 A Yes, sir.

12 Q And would that have put them in violation of the federal
13 regulations?

14 A Absolutely.

15 Q Would that and was that a requirement of the bid
16 specifications that the product be CLIA approved or CLIA
17 waived?

18 A Yes, sir.

19 Q Was your product CLIA approved or CLIA waived?

20 A Yes, sir.

21 Q Was Redwood Toxicology's product CLIA approved, CLIA
22 waived?

23 A The product they bid was, yes.

24 Q In fact, was it the same product itself?

25 A Same product.

1 Q Okay. And were those products CLIA approved or CLIA
2 waived?

3 A Yes, sir.

4 Q Is there anything in this letter that's been admitted into
5 evidence giving five specific reasons why U.S. Diagnostics' bid
6 was not acceptable, did not meet bid specs, was there anything
7 in there that was not true?

8 A No, sir.

9 Q Okay. Did you write these reasons out for the commissioner
10 or for the consultant?

11 A Absolutely.

12 Q And were they all true?

13 A Absolutely.

14 Q Was there anything false about them?

15 A No, sir.

16 Q Mr. Longoria, G-1 has already been entered into evidence,
17 and in G-1 there is a copy of an independent contractor
18 agreement between Drug Testing Corporation and Investigative
19 Research, Inc. Is that correct?

20 A Yes, sir.

21 Q Did you have a signed contract with Cecil McCrory and
22 Investigative Research and DTC hiring Investigative Research to
23 provide consultant services to obtain this business with the
24 Mississippi Department of Corrections?

25 A Yes, sir.

1 Q Let me ask you this. Just how big of a deal in your
2 industry is CLIA? I mean how big of a deal is that?

3 A The manufacturer spends hundreds of thousands of dollars
4 submitting their products to the FDA and CLIA to be able to
5 sell in the United States. So it's a major deal.

6 Q And what did -- for the product that we are talking about,
7 did Brannon Medical, even beginning as far back as 2002 or
8 2003, begin negotiating with the FDA and CLIA to get their
9 product CLIA waived or CLIA approved?

10 A Yes, sir.

11 Q Were you involved in that? Were you aware of that?

12 A I was.

13 Q And at what point did this product that you were selling to
14 the Department of Corrections become CLIA approved or CLIA
15 waived?

16 A The paperwork shows the CLIA waiver shows sometime in 2005.

17 Q And was your product CLIA waived, the product you bid to
18 the M.D.O.C. that fiscal year?

19 A Yes, sir.

20 Q And were there -- I don't know how to -- what you would
21 call a reference guide that is included with your product?

22 A That's called a manufacturer's package insert. It is
23 required by the FDA. Because this product is CLIA waived or
24 moderately complex, it is a requirement that that
25 manufacturer's package insert that has all the technical

1 information has to be in every product sold -- in every box of
2 product sold.

3 Q Did your product -- you sold the ToxCup drug screen cup.
4 Is that correct?

5 A Yes, sir.

6 Q Was that product -- that was DTC's product. Correct?

7 A Manufactured by Brannon Medical. We sold that product,
8 yes.

9 Q You bought that from Brannon Medical?

10 A Yes, sir.

11 Q And did you include a quick reference guide in the boxes of
12 your product?

13 A The manufacturer provided -- it's mandatory that it has to
14 be in every box of product.

15 Q And did that -- I'm going to show you this. Is this -- if
16 we look at the first page of the ToxCup drug screen cup quick
17 reference --

18 A Manufacturer's packaging, yes, sir.

19 Q Okay. And does this point out that it is, in fact, a CLIA
20 waived test?

21 A Yes, sir.

22 MR. FORTNER: Your Honor, this is included in G-1 just
23 for the court's information.

24 THE COURT: Okay.

25 BY MR. FORTNER:

1 Q And I'm going to show you this, Mr. Longoria.

2 Mr. Longoria, is this the U.S. Diagnostics' ProScreen Drugs of
3 Abuse Cup Reference Guide?

4 A Yes, sir.

5 Q And is this, in fact, not CLIA waived?

6 A No, sir. It says for diagnostic use only.

7 Q And, in fact, does it also point out material required but
8 not provided?

9 A Yes, sir, it does.

10 Q And is this, in fact, the U.S. Diagnostics product whose
11 bid was much less than DTC's bid but was also not accepted
12 because it didn't meet bid specification?

13 A Yes, sir.

14 Q The following year, the year after that we are talking
15 about here, let's say going into 2014, did DTC bid on this
16 contract again?

17 A Yes, sir.

18 Q And what happened the next year?

19 A We were undercut by Redwood significantly and did not get
20 the bid.

21 Q Did you bid higher or lower than you had bid the year
22 before?

23 A I bid lower.

24 Q And did you get undercut by Redwood anyway?

25 A Significantly.

1 Q Okay. Let me ask you something, Mr. Longoria. Is that
2 unusual in the industry? I mean is that the nature of the
3 competition of the industry?

4 A Brannon Medical has hundreds of distributors that sell the
5 same product, and when you go to bid, you take your best guess
6 at where you need to be at. And if you get undercut and that
7 other product meets the specs, you don't get the business.

8 Q Okay. Your conversation that was played in here earlier
9 today, that conversation did occur. Correct?

10 A Absolutely.

11 Q And was that a conversation you had in an attempt to get
12 the bid?

13 A Absolutely.

14 Q And did you point out in other conversations with either
15 McCrory or Epps details about your cup, your drug testing cup,
16 the ToxCup drug screen cup that you felt made it a better
17 product for the State of Mississippi?

18 A I did that with every customer I sold it to. Absolutely.

19 Q Okay. Did you always have those conversations?

20 A Absolutely.

21 Q Did those people often call you and ask you about specifics
22 about your product?

23 A The Department of Corrections people from all over the
24 United States.

25 Q And, Mr. Longoria, as a contractor in this particular

1 field, provider of this particular service, do you also make
2 charitable contributions to programs that, say, the Department
3 of Corrections advertises for providers like yourself to make
4 charitable contributions to?

5 A All the time.

6 Q Golf tournaments?

7 A Golf tournaments.

8 Q Raffles, whatever they have?

9 A St. Jude's Fundraisers, Special Olympics, Correctional
10 Peace Officer Foundation.

11 Q Does that correct -- does that occur all over the country?

12 A In every state.

13 Q Okay. And in order to do that business or obtain that
14 business, do contractors like yourself make charitable
15 contributions or sponsorships for various fundraisers like
16 that?

17 A Absolutely. That's how most of the state representatives,
18 the employees, actually go to those conferences. They are
19 sponsored by the vendors. They help pay for the conference.
20 The vendors help pay for the conferences.

21 Q Mr. Longoria, is there anything else at this point that you
22 could add to this that I have not asked you about that you feel
23 like you need to explain to the court?

24 A I don't think so other than the fact that the Department of
25 Corrections and the professionals that write the bid

1 specifications and things like that, they bid on thousands of
2 items. And for a technical product like this -- if you are
3 bidding on a bar of soap, that's a little bit different. But
4 if you are bidding on something that's regulated by the FDA,
5 there is a lot of technical stuff in there that it's not their
6 expertise. So they depend on us to give them that expertise,
7 and that's what we try to do.

8 MR. FORTNER: We will tender the witness, Your Honor.

9 THE COURT: Cross-examination.

10 **CROSS-EXAMINATION**

11 BY MR. LAMARCA:

12 Q Mr. Longoria, back in August of 2013, you worked for
13 Brannon Medical which had been purchased by Redwood Toxicology?

14 A No, sir. They had been purchased by Alere Toxicology.

15 Q Alere. Explain then who Redwood is.

16 A Redwood is another distributor that Alere also purchased.

17 Q All right. So Alere had purchased Redwood and Brannon?

18 A At different times, yes.

19 Q And back in August of 2013 -- well, let's go back to July
20 of 2013. Who did you work for?

21 A Well, I was employed by Brannon Medical Corporation, and I
22 would have to go back and look at -- Alere owned the company.
23 They bought the company a year before, so I was still doing
24 business for Brannon Medical. And at some time during that
25 time period, Alere had me also working with Redwood to assign

1 all of Brannon Medical's state contracts over to Redwood
2 Toxicology.

3 Q And did you get that contract signed over to Redwood
4 Toxicology that was with M.D.O.C. in 2013?

5 A No. That went out to bid.

6 Q And when it went out for bid, did you make a bid on behalf
7 of Redwood Toxicology?

8 A No, I did not.

9 Q Were you still employed with Redwood Toxicology at the
10 time?

11 A I was employed by Alere working for Brannon and Redwood.

12 Q And your instructions were to take all the contracts and
13 move them to whom?

14 A My instructions were to try and get all of the existing
15 contracts moved over that they designated over to Redwood.

16 Q Did you give your best effort to do that?

17 A Yes, I did.

18 Q And still bid on behalf of DTC?

19 A Yes, because Brannon wasn't -- they didn't want Brannon
20 bidding on the contract.

21 Q Who is they?

22 A Alere Toxicology.

23 Q But they wanted you to move the contracts from Brannon to
24 Redwood?

25 A They wanted to move the existing contracts, like Illinois,

1 Virginia, Louisiana, over to that because they were existing
2 contracts.

3 Q I see. So there was no existing contract because it was
4 going out to bid so you felt that it was a free for all. Is
5 that right?

6 A No, I was just doing what the company told me to do.

7 Q You made a bid on behalf of DTC. Right?

8 A I did.

9 Q Okay. So that wasn't what the company told you to do?

10 A The company, Brannon Medical, said that they weren't going
11 to bid and to put it out to the distributors. And DTC was an
12 authorized distributor of Brannon Medical products.

13 Q So did Brannon tell to you make a deal on behalf of DTC
14 with M.D.O.C.?

15 A They told me to bid on the contract.

16 Q Did they tell other people to bid on the contract as well,
17 all these other companies?

18 A They have hundreds of distributors, and anybody that
19 subscribes to Bid-Search, BidSync, like U.S. Diagnostics could
20 have bid on that contract.

21 Q Sure. Anybody could have bid on the contract?

22 A Right.

23 Q But my question to you was did Brannon want you to convey
24 or get those contracts assigned to Redwood?

25 A The contracts that they wanted me to get changed over, when

1 you have a legal contract like the State of Virginia, that was
2 the last one that I signed over, that I helped the state change
3 names. They wanted me to get the Brannon name removed and the
4 Redwood Toxicology name legally with that state contract
5 assigned so that all of the product would go through Redwood
6 Toxicology.

7 Q When did you no longer become employed with Redwood, or
8 Brannon, I should say? You tell me.

9 A Somewhere -- well, I would think somewhere in late '13 or
10 early '14. I think it's late '13. I don't remember the exact
11 date.

12 Q Do you believe it was late '13?

13 A I'm not really sure of the exact date, just because it's
14 been a long time ago and I deal with a lot of different
15 companies and stuff like that, and I don't remember the exact
16 date.

17 Q You've heard this recording about how Redwood was not happy
18 with bidding a nickel over or higher than what you had bid on
19 these contracts for DTC. Do you recall hearing that just a few
20 minutes ago?

21 A I do.

22 Q Why weren't they happy about bidding higher than you?

23 A They want that margin going through Redwood, and Brannon
24 wanted that margin to stay going through Brannon. And DTC was
25 an authorized distributor of Brannon.

1 Q So why did you convince Redwood to bid higher than you?

2 A Because Brannon wanted that product line still going
3 through them as much as possible. Brannon is responsible for a
4 line of 13, \$14 million that they do annually, and Redwood is
5 responsible for their own line of business as far as what they
6 provide to Alere annually.

7 Q Redwood knew they wouldn't get the bid if they were higher
8 than you, right, for the same cup?

9 A I was doing what Brannon wanted me to do which was bid
10 through a Brannon authorized distributor and keep the business
11 going through Brannon, that line of margin.

12 Q Owned by Alere?

13 A Owned by Alere.

14 Q Redwood owned by Alere?

15 A Uh-huh.

16 Q The bottom line is if we can sell it and make the money as
17 opposed to you, we make more money. Right?

18 A I don't understand what you're saying.

19 Q You don't? All right. Let's talk about Alere selling a
20 product for a nickel higher per cup than you are able to.

21 A That's Redwood.

22 Q The same cup?

23 A Yes.

24 Q Would they not make more money?

25 A Yes. Redwood would.

1 Q Redwood would, which is owned by Alere?

2 A Uh-huh.

3 Q And you don't see an issue with the fact that you undercut
4 Redwood by a nickel, a company that you enticed to bid higher
5 than you?

6 A No.

7 Q So then let's go to this e-mail. You asked me if you --

8 A Excuse me. Can I say something?

9 Q Sure.

10 A I worked for Brannon for 13 years. Rafael Juan (phonetic)
11 was the owner. If they wanted that line of margin to continue
12 to go through Brannon, that's who my loyalty was to.

13 Q Are you finished?

14 A Sure.

15 Q All right. Let me show you this e-mail. Do you see that
16 e-mail? Do you remember that e-mail?

17 A Yes, I do.

18 Q All right. You don't mention CLIA there. Do you?

19 A We weren't talking about the CLIA spec. This is a
20 different spec.

21 Q A different spec? Is this a Mark Longoria Spec or a CLIA
22 spec?

23 A This goes to how the cup operates. If you have a cup that
24 the test strips are built in the side, if the test strips are
25 built in the side like this, at the bottom of the strips when

1 urine hits the bottom of the cup, they activate. You have no
2 control over when it activates. The Brannon cup, the lid is
3 built in the top. So to beat this cup, which is what this spec
4 is talking about, if you go into a bathroom and void in the
5 cup, I could put a little bit of water in this, pour it out,
6 then void in the cup with regular urine, the temperature strip
7 would work and I would beat the cup every time. You can't do
8 that with a Brannon cup.

9 THE COURT: I'm sorry. You get what? You said the
10 strip would work and you would get what?

11 THE WITNESS: If you have the strips in the side of
12 the cup, which is what this is talking about, it's very easy to
13 beat this cup because you could spit in it or put a little
14 water in it and it activates on that, because the strips are in
15 the bottom of the cup. They are vertical like this.

16 The Brannon cup, the strips are built into the lid.
17 So you can give the donor the Brannon cup, they can come back
18 and you put the lid on it and the donor never has access to the
19 drug testing device itself. They only have access to a cup
20 with a temperature strip on it.

21 This type of cup, the strips are built into the side
22 of the cup vertically, and then whatever fluid hits the bottom
23 of it, they activate on them. So I can beat this type of a cup
24 very easily by activating it with water or something other than
25 urine and then pouring it out and voiding in there the dirty

1 urine. This type of cup is very easy if the strips are built
2 into the side. The Brannon cup where the strips are built into
3 the lid, the testing device, and then they have to but that on
4 afterwards, an administrator would tilt it. Only at that point
5 would the cup activate. That's a significant reason not to use
6 this type of cup where the strips are built into the side.
7 It's another specification that gives the state a better
8 product that's harder to beat.

9 THE COURT: Mr. LaMarca?

10 MR. LAMARCA: Thank you.

11 BY MR. LAMARCA:

12 Q And in this instance, you're letting your consultant
13 July 24th of 2013 know that the bid needs to be changed.
14 Right? Not the bid but the requirements need to be changed.
15 Right?

16 A Yes.

17 Q Now, you, on behalf of DTC, employed Investigative Research
18 on August 1 of 2013. Right? Let me show you your contract
19 that's part of G-1. Do you see that in front of you?

20 A I do.

21 Q All right. So this request of Mr. McCrory was prior to
22 your hiring him as a consultant. Right?

23 A Looks like that, yes.

24 Q Yes?

25 A Yes.

1 Q You weren't going to hire him as a consultant until you had
2 all requirements that would give you a competitive edge on this
3 bid. Right?

4 A No, this just happens to be when we wrote the contract up
5 and everything and put the contract together.

6 Q What do you mean by *this just happened to be*? I don't
7 understand that. Explain it.

8 A Well, I had been talking to Cecil about this contract for a
9 long time, you know, I mean for -- when Cecil -- when I worked
10 with the consultant, I don't necessarily have that agreement
11 signed right then and there, but we are talking together. He
12 lives in Mississippi, I live in Houston. You know, I'm working
13 with him to get the bid specifications so that the state can
14 use our product which we feel is superior to a lot of different
15 products out there.

16 Q Let me show you Government's Exhibit 2 again. Now, this is
17 an e-mail directly from you or from Mr. Epps to you which
18 attaches or is an e-mail stream from you to Mr. Epps. Is that
19 right?

20 A I see the first page is an e-mail from Commissioner Epps to
21 me.

22 Q Which contains an e-mail stream from you to Mr. Epps.
23 Right?

24 A Yes, it does.

25 Q All right. Thank you. Of course, at the bottom of that

1 e-mail -- because you're telling him what's wrong with the U.S.
2 Diagnostics bid. Right?

3 A I'm telling him what's -- can you lower that a little bit?

4 Q Let me show you the first page. I will put it wherever you
5 want.

6 A I just couldn't see the top part of it. It is cut off.

7 Q There you go.

8 A Bid specs. All right.

9 Q You see that?

10 A Uh-huh.

11 Q You're telling him what's wrong with the U.S. Diagnostics
12 bid. Right?

13 A I'm telling him what specs they don't meet, that's correct.

14 Q And you actually had a copy of U.S. Diagnostics' bid. Did
15 you not?

16 A I don't know if I had a copy of U.S. Diagnostics' bid or
17 not. I had a copy of their manufacturer's package insert.

18 Q That's it?

19 A I don't know. I had a copy of their manufacturer's package
20 insert which clearly states the way that their product
21 performs, to what accuracy, to precision. All of the technical
22 specs that their product meets or does not meet is in the
23 manufacturer's package insert. So that's where these items
24 that they did not meet, that's what I was evaluating or
25 documenting to is from the manufacturer's package insert from

1 U.S. Diagnostics, the ProScreen cup.

2 Q Did you tell Mr. McCrory that his efforts would give you a
3 competitive advantage than others?

4 A I said on there that it would give our product a
5 competitive advantage over products that don't meet those
6 specs. Inferior products, yes.

7 Q When you asked that this needed to be changed back, do you
8 see that in your e-mail to Mr. McCrory after your explanation
9 about the strip being on the side of the cup that it needed to
10 be changed back to the top?

11 A Yes.

12 Q The cups you were going to submit to the state had the tops
13 with the strip in them. Right?

14 A Yes.

15 Q During this period of time, you were negotiating or were
16 you not with Mr. McCrory about a contract to be a consultant
17 with DTC?

18 A At that time I considered him my consultant, yes.

19 Q When did you and Mr. McCrory decide on a dollar 40 per cup
20 being his commission? Was it prior to this e-mail or after?

21 A It was more than likely it was based on what we were going
22 to bid that cup for, because we have to establish what we are
23 going to bid it for first to see how much commission I can pay.

24 Q So you don't know whether it was before or after this
25 e-mail?

1 A I would have to look at the date of the -- my contract was
2 signed with him.

3 Q All right. Now, you recall that DTC produced the
4 agreement. Do you remember that? Under G-1? The independent
5 contractor agreement?

6 A I do.

7 Q Between DTC and Investigative Research?

8 A I do.

9 Q Do you see that on the last page of that agreement there
10 are no signatures?

11 A I do.

12 Q So do you know when that agreement was signed?

13 A I don't know because I couldn't find the signed copy of the
14 agreement.

15 Q Do you know where this particular document, the independent
16 contract agreement, how it was produced?

17 A When the -- when we were subpoenaed for records, we pulled
18 all the information that they wanted concerning this contract,
19 and we provided it at that time.

20 Q Pulled it from where?

21 A Pulled it from e-mail files, the folder that I have on
22 Mississippi Department of Corrections. You know, anywhere in
23 my office that I have records.

24 Q Did that come from a computer or did that come from a file
25 folder?

1 A It probably came from a file -- I couldn't speak to that.
2 I am not sure if it was just a copy from the computer and was
3 reprinted or if it was from the actual M.D.O.C. vanilla [sic]
4 folder that I have in my file cabinet.

5 Q And as part of G-1, pursuant to that agreement, you
6 actually paid him on September 16, 2013, and I will talk about
7 him being Investigative Research, \$194,000. Is that right?

8 A That's correct.

9 Q And at that time that you paid him that \$194,000, you knew
10 at that time of his relationship with Commissioner Epps. Did
11 you not?

12 A That's correct.

13 Q And you knew he was going to pay part of that to Mr. Epps.
14 Right?

15 A I knew he was going to pay some part of that. I just
16 didn't know how much.

17 Q Do you recall a conversation you had with Mr. McCrory in
18 May of 2014 when the bridge purchase was about to be made and
19 Mr. McCrory asked you how much of it did you feel comfortable
20 that he should give to Mr. Epps, and he said about 12,000, and
21 you said just wait on that and let's see how much we are going
22 to bid for it? Not bid but charge.

23 A We weren't going to bid or charge anything. Depending on
24 how much money they bought -- depending on how much product
25 that the state ordered to get them through from that physical

1 year until the next physical budget, typically they run out of
2 product at some point during the physical year. I don't know
3 how much product they are going to order to get them through to
4 the next physical year when they have new funds. So they do a
5 bridge order. It would be based on the 5.95 per cup depending
6 on how much product they ordered. If they ordered a hundred
7 cases or whatever, that would dictate how much commission would
8 be.

9 Q All right. And Mr. McCrory actually told you that the
10 commissioner had a daughter that was getting married and so he
11 needed to make this sale to you. Did he not?

12 A He said something to that effect.

13 Q Mr. McCrory did to you?

14 A Yes.

15 MR. LAMARCA: Your Honor, I would ask that this e-mail
16 that we have been referring to dated July 24th of 2013 be
17 admitted as Government's Exhibit 3.

18 THE COURT: Any objection?

19 MR. FORTNER: No, Your Honor.

20 THE COURT: G-3 is admitted. G-4 vice G-3.

21 (EXHIBIT G-4 MARKED)

22 BY MR. LAMARCA:

23 Q Mr. Longoria, the conversation that we played earlier, the
24 telephone call, that was a conversation between you and whom?

25 A Cecil McCrory.

1 Q And that did occur back in May of 2014?

2 A Yes, it did.

3 Q All right.

4 MR. LAMARCA: And I think that is G-3, Your Honor,
5 that we would like to admit.

6 THE COURT: All right. Is G-3 admitted, Hannah?

7 THE CLERK: Yes, sir.

8 MR. LAMARCA: Then that's all.

9 THE COURT: Redirect?

10 MR. FORTNER: No. I don't think I have any redirect
11 of Mr. Longoria, Your Honor. Thank you.

12 THE COURT: All right. You can step down.

13 THE WITNESS: Thank you, sir.

14 MR. FORTNER: Your Honor, at this point I believe that
15 my Defendant's Exhibit Number 1 was the composite that was put
16 together by the accountant, Ms. Makris. It was only admitted
17 for identification purposes. I ask that it now be admitted as
18 Defendant's Exhibit Number 1.

19 THE COURT: Any objection?

20 MR. LAMARCA: I don't object, Your Honor.

21 THE COURT: Admitted.

22 (EXHIBIT D-1 MARKED)

23 MR. FORTNER: Your Honor, I do have several character
24 witnesses I would like to call. They won't be very long. I
25 don't know if Mr. LaMarca wants to put on any rebuttal to what

1 we have already done or if you want to hear that first on the
2 objections.

3 THE COURT: Mr. LaMarca says he has a witness. Is
4 that correct, Mr. LaMarca?

5 MR. LAMARCA: I did, Your Honor, but at this point
6 considering the testimony and the exhibits we were able to
7 introduce, we will not be calling a witness.

8 THE COURT: Okay. Since he is not calling a witness,
9 how many character witnesses do you have?

10 MR. FORTNER: Seven, Your Honor. Two of them have to
11 catch a flight, and I would normally put them on a little
12 later, but I need to go ahead and call them first. I don't
13 believe they will be very lengthy if the court would allow me
14 to proceed. In fact, I don't think any of them will be
15 terribly lengthy, Your Honor.

16 THE COURT: Call your witnesses.

17 MR. FORTNER: Danny Longoria, Your Honor.

18 THE COURT: Come forward.

19 **DANNY LONGORIA,**
20 having first been duly sworn, testified as follows:

21 THE WITNESS: I have a military background. When I
22 take an oath, it's swear or affirm.

23 THE CLERK: Do you solemnly affirm?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Okay.

1 MR. FORTNER: Your Honor, just to make sure, I had
2 submitted a letter from Danny Longoria via e-mail to the court
3 and to Mr. LaMarca earlier and to the probation officer. Do I
4 need to mark that as an exhibit, or will the court's copy be
5 marked as an exhibit?

6 THE COURT: I will make mine a part of the record when
7 I discuss it later.

8 MR. FORTNER: Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 BY MR. FORTNER:

11 Q Would you tell us your name, please.

12 A Adam Danny Longoria, Jr.

13 Q And how old are you, sir?

14 A I'm 55 years old.

15 Q And where do you live?

16 A Hampton, Virginia.

17 Q Do you know Mark Longoria?

18 A Yes, sir.

19 Q How do you know him? How are you related to him?

20 A Mark Longoria is my brother.

21 Q Did y'all grow up together?

22 A Yes, sir.

23 Q Raised by the same parents?

24 A Yes, sir.

25 Q In the same household and so forth?

1 A Yes, sir.

2 Q And earlier at my request did you write a letter that you
3 forwarded to me on behalf of your brother, Mark Longoria?

4 A Yes, sir.

5 Q Danny, are you currently serving in the United States
6 military?

7 A I am not, but I am employed by the D.O.D.

8 Q And how long did you --

9 THE COURT: Say that again now. You are not --

10 THE WITNESS: I am not active duty military, but I am
11 employed as a government civilian by the U.S. Navy.

12 THE COURT: Okay. Go ahead.

13 BY MR. FORTNER:

14 Q By the Department of Defense?

15 A Yes, sir.

16 Q How long were you active military?

17 A Yes, sir, I was active military just shy of 22 years. 21
18 years and 300 something days.

19 Q And what branch of military service were you in?

20 A United States Air Force.

21 Q And how long have you been -- you were honorably
22 discharged, I presume?

23 A Yes. I retired from active duty in 2002, and it was an
24 honorable discharge.

25 Q And how long have you been working for the Department of

1 Defense?

2 A I retired in 2002, and after I retired, I was -- I started
3 working initially as a contractor for the United States Navy,
4 and then I was subsequently hired as a general schedule
5 government civilian for the United States Navy. And then from
6 there, I bounced back and forth a couple of times. I worked as
7 a contractor, but the majority of time since I retired I worked
8 as a government civilian.

9 Q And where do you live?

10 A I live in Hampton, Virginia.

11 Q Are you older or younger than your brother, Mark?

12 A I'm about a year and a half older than Mark.

13 Q Are you the only two siblings in the family?

14 A Yes, sir.

15 Q Have you stayed in touch with your brother, Mark, over the
16 years?

17 A Yes, sir.

18 Q Are the two of you close?

19 A I believe so, yes, sir.

20 Q Do you know his children?

21 A Sir?

22 Q Do you know his children?

23 A Yes, sir, absolutely.

24 Q Do you know his wife?

25 A Yes, sir.

1 Q Has he been married more than one time?

2 A No, sir.

3 Q And do you know how long he has been married to his wife?

4 Best guess.

5 A Let's see. Forgive me. I believe they were married in
6 '88.

7 THE DEFENDANT: 29 years today.

8 THE COURT: You can't speak to him. He is a witness.

9 BY MR. FORTNER:

10 Q If I said 29 years?

11 A That sounds right.

12 Q Danny, when you first learned about your brother being
13 charged and pleading guilty in this incident, how did that
14 affect you? What did you think?

15 A You know, it was unbelievable to me. I was stunned. It
16 was unbelievable to me. And, of course, I was very concerned.

17 Q Were you shocked that he might get himself involved in some
18 illegal activity such as this?

19 A Absolutely.

20 Q Is there anything about his upbringing or his -- how he has
21 treated his family or how he has run his business that you are
22 aware of that would ever indicate to you any dishonesty on his
23 part?

24 A Absolutely not.

25 Q Are you surprised to have to be in this courtroom under

1 these circumstances?

2 A Absolutely. Yes, sir.

3 Q Have you had discussions with your brother about this
4 situation since this happened?

5 A Yes, I have.

6 Q Do you have concerns that he might in the future engage in
7 any other illegal activity?

8 A Absolutely not.

9 Q Any doubts at all about that in your mind?

10 A Absolutely not. If I may?

11 Q Talk to the judge.

12 A May I make a comment like --

13 Q Yes, you may make a comment?

14 A Yes, sir. Sir, you know, Mark is my only brother. I love
15 him, and I feel like I know him well. I feel like I know him,
16 his family. And my mother and father, they live in Newport
17 News, Virginia. It is adjacent to Hampton, Virginia. It's
18 very close. I think I can speak for them.

19 Your know, we -- and forgive me. I'm kind of searching for
20 a way -- this seems to be so I guess out of character perhaps
21 or just not -- it doesn't jive with anything I know about my
22 brother, his family, his history, his business, anything like
23 that. And, of course, my parents, you know, me, my family, we
24 are very concerned. And I can't imagine -- I can't imagine
25 anything like this even being a possibility. So as far as it

1 recurring, absolutely not.

2 Q Danny, let me ask you this. Knowing your brother the way
3 you know him, is there any doubt in your mind that he would
4 comply with whatever restrictions or orders the court might
5 place upon him? Would he follow the court's orders?

6 A Yes. Absolutely. Yes, sir.

7 Q I mean has he been that type of person? Is he that type of
8 person?

9 A Absolutely. Sir, as I know my brother, he is -- he is --
10 if I may, may I just describe him?

11 Q Yes.

12 A Sir, I was in the Air Force for 22 years essentially, and I
13 have worked for D.O.D. and the Department of Homeland Security
14 also. I worked for the U.S. Coast Guard. I've worked in a
15 culture -- I have come up in a culture of professionalism and
16 honor and honesty, service. And I have -- sir, I'm not trying
17 to be boastful, but in my career, I have worked -- a lot of my
18 work was in what's called special duty assignments, and they
19 are just more selective. And so I have worked in some various
20 jobs and jobs that were very important in the military, and I
21 have worked with a lot of quality people, and I have worked
22 with the whole gamut. I have worked with general officers all
23 the way to recruits. I have been all over the United States.

24 And, sir, I don't know anybody that's more honorable and
25 honest and good than my brother. And that's sincere. I mean I

1 wouldn't say it if I didn't believe that, if that wasn't my
2 experience. Honestly the only person that I appreciate as
3 having a similar honor and character is my dad. And that's
4 just the way it is, sir, respectfully.

5 Q Thank you, Danny.

6 MR. FORTNER: We will tender the witness, Your Honor.

7 THE COURT: Cross-examination.

8 MR. LAMARCA: No questions.

9 THE COURT: One second. I do have a few questions.
10 You retired as rank or rate? What did you retire as?

11 THE WITNESS: In the Air Force, I retired as an E7 in
12 the Air Force. That's called a master sergeant.

13 THE COURT: I know. You're an E7?

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. And what was your MOS?

16 THE WITNESS: MOS in the Air Force, they call it Air
17 Force Specialty. I finished up as a 3c0. Over the years the
18 MOS or the AFSC changed, but basically I was computer IT.

19 THE COURT: Okay. In communications. You were in
20 communications, intelligence -- not intelligence, but let's
21 see. What did you do in communications?

22 THE WITNESS: In the Air Force there is a lot of --
23 obviously there is a lot of different jobs, and a person tends
24 to become kind of specialized based on assignments and the work
25 they have done, etcetera, and that influences assignments as we

1 go. I did work -- my career field was computer communications
2 and I kind of put it under the IT umbrella, but as far as
3 communications, the only significant job that I had
4 specifically in regards to communications, I was assigned at
5 Shemya Air Force Station in Alaska. It is out in the Aleutian
6 Islands, and I was in charge. I was the NCOIC of the base com
7 center.

8 THE COURT: Okay. And what was your highest
9 clearance?

10 THE WITNESS: Top secret, sir.

11 THE COURT: Did you actually have a top secret?

12 THE WITNESS: Oh, I had a top secret almost my entire
13 career.

14 THE COURT: One second on that. You would not have
15 come in at top secret.

16 THE WITNESS: Yes, sir.

17 THE COURT: So at what point did you achieve top
18 secret?

19 THE WITNESS: Let's see. I came in '80 -- I would say
20 perhaps '86. And the reason that I say that is because the
21 requirement for the -- okay. When I first came in, the
22 clearance that I achieved and that I was investigated for and
23 that I was granted was based on the position that I was in.

24 THE COURT: What was that position?

25 THE WITNESS: My first assignment was at Langley Air

1 Force Base. I supported software development for Langley Air
2 Force Base. And so the requirement --

3 THE COURT: Now everyone doesn't come in at a top
4 secret, so they had to put you in for top secret for a specific
5 reason, even put you in for secret for a specific reason
6 because you would not have had secret when you first came in.
7 So you had to work up to secret and then go to top secret. So
8 I'm just asking you at what point did you come in at top secret
9 and for what reason.

10 THE WITNESS: Yes, sir.

11 THE COURT: I know the procedure for top secret. I
12 had it when I was a Navy JAG.

13 THE WITNESS: Yes, sir.

14 THE COURT: So everybody even in Navy JAG doesn't have
15 top secret, but I was allowed it. So tell me what procedure
16 you went through to get top secret.

17 THE WITNESS: Yes, sir. My initial granting of a top
18 secret clearance was due to my career field requiring a top
19 secret because of the range of assignments that were subject
20 to. So it wasn't necessarily based on the position or the job
21 that I was in at that particular time but the career field was
22 changed so that it required a TS. Subsequent to that, I did
23 work in positions that required a TS.

24 THE COURT: You retired as E7?

25 THE WITNESS: Yes, sir.

1 THE COURT: And so then were you eligible for E8?

2 THE WITNESS: You know, sir, in the Air Force we test
3 and then there is different -- different things contribute to a
4 promotion.

5 THE COURT: Let me ask you my next question then. How
6 long were you an E7?

7 THE WITNESS: I was a -- I made E7 at about the
8 15-year point.

9 THE COURT: And you retired at the 21st year?

10 THE WITNESS: Yes, sir.

11 THE COURT: So then you should have been close to the
12 selection area for E8 about the time before you got out.

13 THE WITNESS: Yes, sir.

14 THE COURT: So then what happened to the E8?

15 THE WITNESS: Sir, it's -- yes, sir, I will be
16 perfectly glad to explain.

17 THE COURT: The field is restricted for E8, and the
18 number of people who are eligible for E8 doesn't mean that just
19 because you are E7 and put in a certain amount of time, you
20 have got to go through a selection field and they tell you how
21 many are going to be selected of that number of E7s. So it is
22 not automatic. And you have to be -- well, I will just give
23 the process. An E7 who has the requisite number of years as an
24 E7 who also has a jacket which merits being included in a
25 prospect for promotion then will have the name submitted. That

1 goes to a committee, and that committee also determines where
2 the cutoff point is. And only so many people will be promoted,
3 notwithstanding that everybody who is being reviewed by that
4 committee is an E7 who has the requisite number of years to go
5 to E8. But that committee then determines whether it is going
6 to be the top this or the top that. It might be the top 20,
7 30, 40 percent and then they make that determination as to
8 that. They rely solely on the jacket. They do not interview
9 anybody. They just go on the jacket.

10 And so then these officers which might even include an
11 E8, E9, will make that determination, and then the people are
12 notified. Now, there is another view on that, not a view but
13 another aspect of that is that one can determine from the
14 handwriting on the wall that one will not get to be an E8
15 because a person -- if the individual has gone up for E8 on
16 more than one occasion and the person has not gotten it, then
17 that individual knows that he will probably never go to E8.
18 And that occurs. Now they call that being passed over. That's
19 what the term is. And so as a JAG, when I was in, of course I
20 participated in these various approaches because I not only was
21 asked something about the enlistment promotion scheme but I
22 also sat in on some of the officer promotion schemes as a
23 recorder. Since I was an O3 getting ready to go to O4, then I
24 would not have been allowed to actually vote on officers, but I
25 was the recorder. A recorder is like a glorified secretary

1 there who puts all the information before the committee, and I
2 have to make sure that everything is in the jacket. And so I
3 did all of that. I also served on other promotion committees
4 where we were picking people to go to law school who would then
5 owe the Navy one year -- two years for every one year they
6 spent in law school. And we had over a thousand people but
7 could only select something like I think 25.

8 But nevertheless, I have been on more than one
9 selection committee. And with regard to the enlisted in my
10 command, I worked with them to assist them in getting their
11 jackets together. The jackets were held in D.C. You have a
12 temporary jacket and you also have a permanent jacket. The
13 permanent jacket is in D.C. The temporary jacket, the
14 serviceman is supposed to carry that around with them. They
15 had to make sure the two actually reflect each other. Some
16 people have been denied promotion because they didn't have the
17 requisite inclusions in their service jacket that's permanent
18 that they had in their temporary jacket, and they had never
19 checked it, and, therefore, they didn't know that their
20 permanent jacket that was used by the selection committee
21 didn't have all the information that they had in their
22 temporary jacket.

23 THE WITNESS: Absolutely. And, if I may, sir, one
24 common instance of that are decorations.

25 THE COURT: That's right. You have to make sure

1 that's all that's in there. So all those things have to be in
2 there. That was part of my job when I served on these boards
3 as a recorder to make sure that everything was in the jackets
4 and to go through their entire career, also to make sure there
5 were no gaps in all of that. So I'm readily familiar with all
6 of that because they called me on more than one occasion to
7 come to D.C. to serve on those various selection committees,
8 not that I had a vote all the time, because some I had more
9 influence than on others. But I was called there and asked to
10 put together the jackets, for instance, with the selection
11 committee to go to law school to be paid for by the military.
12 On that one I didn't have a vote, but since I was the only one
13 on that committee while I was serving as a recorder who knew
14 something about law schools, then actually I had a huge input
15 into what the others needed to know about law schools and
16 etcetera.

17 So now let me go back to you. You were an E7 you said
18 for -- you were E7 for 15 years.

19 THE WITNESS: Yes, sir.

20 THE COURT: And during that time period you said you
21 acquired a top secret clearance.

22 THE WITNESS: Absolutely. Yes, sir.

23 THE COURT: And when you went to work for D.O.D., did
24 you keep your top secret clearance?

25 THE WITNESS: I did not.

1 THE COURT: You had to give it up when you left the
2 military?

3 THE WITNESS: Yes, sir. Essentially, yes, sir.

4 THE COURT: Okay.

5 THE WITNESS: Now, if I may, sir, the clearance had
6 been granted and it was granted for X amount of time, but it
7 was not active because I wasn't --

8 THE COURT: Doing the same job.

9 THE WITNESS: Yes, sir.

10 THE COURT: Right. I understand. I mean the same
11 way. I mean I had top secret clearance for some special
12 matters I had to do for the Navy, but when I left the Navy, my
13 clearance reverted to secret.

14 THE WITNESS: Yes, sir. Exactly, sir.

15 THE COURT: Same thing?

16 THE WITNESS: Yes, sir.

17 THE COURT: Now, let me turn to your brother. And I'm
18 glad you came and want to share with us your devotion and your
19 confidence in your brother. But you said you had discussions
20 with him about this matter.

21 THE WITNESS: Yes, sir.

22 THE COURT: So why did he tell you he did this?

23 THE WITNESS: Sir, he said that he made a mistake. He
24 said he made a bad decision. He said that he -- as I
25 understand it, there is -- there are business processes

1 associated with this profession and the industry. And my
2 understanding was that he did what he understood needed to be
3 done based on the industry and based on the practices and what
4 have you. My brother told me that he made a mistake and he
5 made a bad decision.

6 THE COURT: But did he tell you he only did it one
7 time?

8 THE WITNESS: Yes, sir.

9 THE COURT: Just once?

10 THE WITNESS: Yes, sir.

11 THE COURT: And if that's not -- well, let's see. Mr.
12 LaMarca, do you agree he only made one mistake?

13 MR. LAMARCA: One initial mistake that was
14 perpetuated.

15 THE COURT: Explain that.

16 MR. LAMARCA: The one time in May -- I'm sorry -- July
17 of 2013 and then again with the bridge loan -- the bridge sale
18 order of more test cups, that occurred again in May of 2014.
19 So it was perpetuated again for additional money.

20 THE COURT: And over how many months did this scheme
21 last?

22 MR. LAMARCA: Well, it was a year's contract, a
23 one-year contract. So it began in August of 2013 and ended the
24 end of July of 2014.

25 THE COURT: Okay. Thank you. I just wanted the

1 prosecution to tell you what their theory was about this
2 matter.

3 THE WITNESS: Yes, sir.

4 THE COURT: So did you talk to your brother about all
5 of this?

6 THE WITNESS: I just have a basic understanding, sir.
7 As a matter of fact, sitting in here, I have come to become
8 better aware of some of the particulars. But I really just
9 kind of have a basic understanding of what the situation was.

10 THE COURT: And do you have a basic understanding of
11 how much money he may have earned through his illegal venture?

12 THE WITNESS: Sir, as I understand it, and I know that
13 part of the -- I guess a fair amount of the discussion regarded
14 whether the state paid more or less and how much they made and
15 etcetera. And, sir, my understanding is that the state saved
16 money in regards to the contracts and how much the bid was and
17 the item and etcetera. And my understanding was that I guess
18 in relation to my brother's business, it wasn't -- it wasn't
19 really a substantial part. That's my understanding now.

20 THE COURT: I understand. But with regard to whether
21 he committed a crime, what about that? What's your opinion as
22 to whether he committed a crime?

23 THE WITNESS: Sir, he said he did it. He said he did
24 wrong and he made a bad decision.

25 THE COURT: Okay. And you heard the tape a few

1 moments ago.

2 THE WITNESS: Yes, sir.

3 THE COURT: And what impact did that have on you?

4 THE WITNESS: Sir, it sounds like he was doing what he
5 needed to do -- excuse me. It sounded to me like he was doing
6 what he needed to do to complete his business deal, but, you
7 know, I guess in my opinion based on what I understand and
8 based on what I heard, it sounded to me like he was conducting
9 business the way business is conducted.

10 THE COURT: Okay. And my last question.

11 THE WITNESS: Yes, sir.

12 THE COURT: You said that you are surprised that your
13 brother ended up in this predicament.

14 THE WITNESS: Absolutely.

15 THE COURT: And you said it was a terrible shock to
16 you.

17 THE WITNESS: Absolutely.

18 THE COURT: So with that as a backdrop, how can you be
19 assured of what he might do in the future?

20 THE WITNESS: Sir, when I consider this situation and
21 I put it in the context of my brother's life and what I know
22 about my brother and his family along with -- sir, along with
23 what my brother and his family, too, along with what I know
24 about my brother, based on what he has told me about the
25 consequences of this bad decision he made, the consequences,

1 you know, he -- his business has suffered substantially. And I
2 don't know all the particulars about how the industry works and
3 how the word gets around or whatever, but from what I
4 understand, his business has suffered. From what I understand,
5 there has been like repercussions from business and investments
6 my brother has. He has had problems with I guess like tax
7 deferred savings and accounts and etcetera. He had to
8 withdraw -- he had to withdraw money in accounts that were tax
9 deferred as I understand it, so he is taking a huge hit there.

10 The possibility of having to go to jail. You know,
11 the consequences that -- you know, what the potential effects--
12 what the potential effects are for his family. Sir, my brother
13 is not stupid respectfully. Respectfully. My brother is not
14 stupid and he knows he has made a mistake. He knows he screwed
15 up. And there is no way. You know, there is no way that my
16 brother would make this same mistake twice. Given the
17 potential -- it's like risk/reward, cost/benefit. Based on
18 what he might stand to gain in comparison to what he has lost
19 and what could happen, sir, there is no way. There is no way.

20 THE COURT: Any questions based on mine? Start first
21 with the defense.

22 MR. FORTNER: No, Your Honor.

23 THE COURT: Prosecution?

24 MR. LAMARCA: No, Your Honor.

25 THE COURT: All right. Thank you. You can step down.

1 Thank you much.

2 THE WITNESS: Can I make one more comment?

3 THE COURT: Any objection? I don't. Make your
4 comment.

5 THE WITNESS: Sir, I thought a lot about this. If I
6 may use an example, sir? I have a son. I have a daughter,
7 too. But I have a son and he has had some health problems, and
8 he has had to have a couple of surgeries. One, he had to have
9 open heart surgery. You know, we had to go through a process
10 of medical procedures, whatever. And he ended up having that
11 surgery, and we met with the surgeons, and I know they are
12 professionals. They are professionals and doctors do what they
13 do and they have dedication, they have calling, they have
14 whatever. They are professionals, and I was confident in their
15 ability, but I still felt compelled to ask them, sir, this is
16 my son; please, you know, please take care of him, you know.

17 And, you know, I thought about this, sir. Sir, I just
18 wanted to ask you -- sir, I respect you. I respect laws,
19 court. I respect everything. And I understand you're a
20 professional. But, sir, I want to appeal to you. I want to
21 ask you please to the degree that you can, please try to
22 understand my brother. And you won't only hear it from me.
23 Anybody that you talk to will tell you what I have told you,
24 and I just ask you please to the degree that you can, please --
25 I don't know what the right terminology is. Please be

1 merciful. Please be lenient, whatever, sir, because I love my
2 brother. I know what kind of person he is. I know what effect
3 this has had on him. I believe that I know -- you know, my
4 brother would never make the same mistake again, and I just ask
5 given all things considered, I ask you please be to the degree
6 you can I pray that you will be merciful and be lenient to my
7 brother.

8 THE COURT: All right. Thank you so much.

9 THE WITNESS: Thank you very much.

10 THE COURT: Uh-huh. Mr. Fortner, call your next
11 witness.

12 MR. FORTNER: Your Honor, we would call David Welch.

13 THE COURT: Mr. Welch, come forward.

14 **DAVID WELCH,**

15 having first been duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 BY MR. FORTNER:

18 Q Could tell us your name, please?

19 A Yes. My name is David Welch.

20 Q And, David, what do you do for a living?

21 A I am a pastor of a church.

22 Q And what is your church?

23 A It's Bear Creek Baptist Church in the Houston area.

24 Q And how long have you been a pastor?

25 A I have been in church ministry 40 years.

1 Q And how long have you been pastor at Bear Creek Baptist
2 Church in Houston?

3 A 16 years.

4 Q Do you know Mark Longoria and his family?

5 A Yes, I do.

6 Q And how long have you known them?

7 A They have been a part of Bear Creek longer than I have
8 been, so they have been active all 16 years that I have been
9 pastor there.

10 Q During your ministry at Bear Creek?

11 A Yes.

12 Q And when you say they have been active, active in what
13 ways?

14 A Yes. So I mean that they have attended regularly, really
15 consistently, that they have volunteered in a lot of ways. Our
16 church probably has -- we are a church of about 2500 on a
17 Sunday morning, and so we have 7 or 800 volunteers, and they
18 have been -- they have volunteered with children, you know, and
19 so that's -- that's how they have been involved and by giving
20 as well.

21 Q And you know -- do you know his wife and his daughter?

22 A Kimberly, yes, and the daughters, yes. I do. I know them
23 well.

24 Q And do all of them attend Bear Creek?

25 A Yes.

1 Q At Bear Creek do you keep records of charitable giving of
2 your members at Bear Creek?

3 A Yes. It is a legal requirement, yes.

4 Q Let me hand you this paperwork and ask you if you can
5 identify that.

6 A Yes. This is an individual giving statement for
7 contributions to Bear Creek.

8 Q And what does that reflect? Does it reflect the giving
9 patterns of Mr. Longoria and his family over how long a period
10 of time?

11 A Yes. The IRS requires churches to keep these records, and
12 for them, this goes back to 2002 it looks like.

13 Q And is that about as long as you have been a pastor at Bear
14 Creek?

15 A Yes. I was there maybe -- well, this is just where it cuts
16 off with these records. So, yes, that's right, I have been
17 there since 2001.

18 Q Okay.

19 MR. FORTNER: Your Honor, just for our purposes, I
20 would like to ask that this be marked as an exhibit, a defense
21 exhibit to this witness' testimony.

22 THE COURT: Any objection?

23 MR. LAMARCA: No objection, Your Honor.

24 THE COURT: All right. It will be received.

25 THE CLERK: D-3 marked.

1 (EXHIBIT D-3 MARKED)

2 BY MR. FORTNER:

3 Q Pastor, is it your understanding or belief that the
4 Longorias are a tithing family at your church?

5 A It appears so based on that, yes.

6 Q Okay. And do you find them to be sincere active members of
7 your congregation?

8 A By all means, yes.

9 Q And let me ask you, the position that you find yourself in
10 and that you see Mr. Longoria in, is this position -- does this
11 surprise you?

12 A Oh, yes.

13 Q Based upon your knowledge of him and his family?

14 A Yes.

15 Q Are you surprised that he has found himself in this
16 situation?

17 A Yes.

18 Q You do understand that he has pled guilty to committing a
19 federal crime. Correct?

20 A Yes.

21 Q Involving money. Correct?

22 A Correct.

23 Q When confronted with this charge, are you surprised that he
24 pled guilty, admitted it, if he was -- assuming that he is, in
25 fact, wrong, that he did, in fact, commit this crime, are you

1 surprised that he stood forth and admitted it?

2 A I am not surprised that he stood forth.

3 Q Is that the type of person that he is? Does he have that
4 character?

5 A Yes.

6 Q Reverend, do you believe from what you know of him and his
7 family, do you believe that Mr. Longoria will take seriously
8 any punishment the court gave him?

9 A Oh, yes, I do.

10 Q Do you believe or do you have confidence as his pastor that
11 he would not commit a crime of this nature or any nature in the
12 future?

13 A Based on what I know about he and his family, that's
14 correct. I do believe he would not.

15 MR. FORTNER: We will tender the witness, Your Honor.

16 THE COURT: Cross-examination.

17 MR. LAMARCA: I have no questions, Your Honor.

18 THE COURT: What denomination, please?

19 THE WITNESS: Southern Baptist.

20 THE COURT: All right. And do you go to the
21 convention every year?

22 THE WITNESS: No, I do not.

23 THE COURT: Any particular reason?

24 THE WITNESS: I just object to the politics.

25 THE COURT: Okay. So when is the last time you have

1 been?

2 THE WITNESS: To a convention?

3 THE COURT: To a Southern Baptist convention?

4 THE WITNESS: Let's see. When the Southern Baptist
5 convention was in Houston, that would have been three or four
6 years ago. Maybe three or four years ago. I can't remember.
7 I went then.

8 THE COURT: All right. And you are ordained?

9 THE WITNESS: Yes, sir.

10 THE COURT: And when were you ordained?

11 THE WITNESS: In 1987.

12 THE COURT: And with regard to background education,
13 can you tell me what that is?

14 THE WITNESS: I'm sorry?

15 THE COURT: Your education level.

16 THE WITNESS: Yes. So I have a master's in theology
17 from Southwestern Seminary, and then I have additional doctoral
18 work but not completed from New Orleans Baptist Theological
19 Seminary.

20 THE COURT: And how much time do you have left on
21 that?

22 THE WITNESS: I have suspended it, but I did about a
23 third of the work.

24 THE COURT: Okay. Now, you talked about the giving,
25 the charitable giving of the defendant's family, but I didn't

1 hear you say how often he attends church.

2 THE WITNESS: They are very consistent. Now it is a
3 large church, so for me personally, I can only go by, you know,
4 what I see. But I see them quite often in our church.

5 THE COURT: Do you have assistant pastors there?

6 THE WITNESS: Yes. Oh, yes.

7 THE COURT: How many?

8 THE WITNESS: Let's see. We have five pastors and
9 then other directors and coordinators. It is an equivalent of
10 about 30 ministry staff members.

11 THE COURT: All right. And finally, did you talk to
12 the defendant about this matter?

13 THE WITNESS: Yes. I sat with he and his wife and
14 did -- they told me about it.

15 THE COURT: And what did they tell you?

16 THE WITNESS: They -- he told me that this had
17 happened and that he had made a big mistake and that he was
18 disappointed in himself and he was very sorry for what this was
19 going to mean to his family and others around him.

20 THE COURT: Did he provide to you any outline of how
21 he would seek to atone for these acts?

22 THE WITNESS: He did not. We did not talk about that.

23 THE COURT: Okay. Anything else you want to tell me?
24 Well, do you know how well he is received and respected by his
25 fellow parishioners?

1 THE WITNESS: Yes. There is much to say about him.
2 So what he is known for is just what a generous man he is in
3 our community. And so he gives not just to his church but also
4 to other really meaningful charities like St. Jude's and like
5 Habitat for Humanity and like Shriner's. In fact, I know that
6 he has actually privately -- without others knowing it, he has
7 on two different occasions paid for a person's funeral.

8 And so I have sat with his daughter and son-in-law. I
9 did their wedding, and so I did premarital counseling with them
10 and so I sat with them for six hours and I could just see such
11 great character coming out of his daughter. And that's not
12 done by accident. That comes as a result of really consistent,
13 excellent parenting. And you don't sit through church for 16
14 years, at least not in our church you wouldn't sit through it
15 16 years, without being really serious about your faith and
16 serious about growing. And from what I know about Mark, this
17 is a mistake, a terrible mistake he has made that is out of
18 character with the rest of his life.

19 THE COURT: Okay. And finally, sometimes when persons
20 have strayed into the criminal justice system and they enlist
21 the support of their pastor as well as the church, they ask the
22 entire church body to pray for them by confessing what they
23 have done. Did he do that?

24 THE WITNESS: No, not church-wide. No. He came to me
25 personally.

1 THE COURT: So then with regard to his confession of
2 wrongdoing and his request for spiritual assistance, he didn't
3 carry it to the full congregation?

4 THE WITNESS: That's correct. That's correct. And
5 that would not be a normal thing in our church. That's not a
6 normal thing we would do that we would call for some sort of
7 public confession.

8 THE COURT: You don't have testimonials?

9 THE WITNESS: No.

10 THE COURT: So you have never had parishioners who
11 would call upon the entire church for support?

12 THE WITNESS: For prayer, yes, but not as a confession
13 of sin. To stand publicly and confess sin, no, that's not a
14 normal -- that would not be a normal practice for us.

15 THE COURT: And with regard to the parishioners at the
16 church, is it your impression they know about this or do not
17 know about this?

18 THE WITNESS: It's my impression that very few would
19 know about it.

20 THE COURT: Okay. Any questions based on mine from
21 either side?

22 MR. LAMARCA: No, Your Honor.

23 MR. FORTNER: No, Your Honor. Thank you.

24 THE COURT: All right. Thank you so much.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Mr. Fortner, I presume the rest of your
2 witnesses are going to be here tomorrow. Am I correct?

3 MR. FORTNER: May I have just a minute, Judge?

4 THE COURT: Go right ahead.

5 (SHORT PAUSE)

6 MR. FORTNER: Your Honor, my client's daughters are
7 both here. His son-in-law is here. They have work and college
8 classes and so forth tomorrow, and they have not made
9 arrangements to miss and were going to drive back tonight. I
10 don't think they would be very long. If we could put them on,
11 that would be helpful. Would it be all right with the court,
12 or is that going to take too much time?

13 THE COURT: It's not going to take too much time. I
14 will take a 15-minute recess and then I will come back and take
15 them up.

16 MR. FORTNER: Thank you, Judge.

17 THE COURT: Okay.

18 (RECESS)

19 THE COURT: Mr. Fortner, call your next witness.

20 MR. FORTNER: Your Honor, if I may, Ms. Makris, while
21 she testified, we had marked this series of documents
22 Defendant's Exhibit Number 2 for identification, and she left
23 the witness stand with them in her hands inadvertently. She
24 gave them to me. I don't think Mr. LaMarca has any objection
25 if we now mark this as Defendants' Exhibit Number 2.

1 THE COURT: All right. Please give it to my court
2 reporter.

3 MR. LAMARCA: And I do have no objection, Your Honor.

4 THE COURT: All right. Give it to her.

5 (EXHIBIT D-2 MARKED)

6 MR. FORTNER: Your Honor, we would call Savanna Craig.

7 **SAVANNA CRAIG,**

8 having first been duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 BY MR. FORTNER:

11 Q Would you tell us your name, please?

12 A Savanna Craig.

13 Q And, Savanna, how old are you?

14 A I'm 22.

15 Q Are you married?

16 A I am.

17 Q And what is your husband's name?

18 A Cameron Craig.

19 Q And how long have y'all been married?

20 A Three months.

21 Q And who is your father?

22 A Mark Longoria.

23 Q And your mother?

24 A Kimberly Longoria.

25 Q And when you say Mark Longoria, you are referring to the

1 defendant in this case. Is that correct?

2 A Yes.

3 Q You have to speak up. All right?

4 A Okay.

5 Q Do you -- are you employed or in school?

6 A I'm in school full-time.

7 Q And where do you go to school?

8 A The University of Houston.

9 Q And what are you studying?

10 A Psychology with a minor in human development and family
11 studies.

12 Q Now you understand that your father is here to be
13 sentenced. Correct?

14 A I do.

15 Q And have you sat down with your family and your father and
16 discussed this matter, what he is here for?

17 A Yes, we have.

18 Q And has he explained that to you?

19 A Yes.

20 Q Did you -- I'm going to ask you some other questions, but
21 did you prepare a statement that you wanted to read to the
22 court about your father, Savanna?

23 A I did, yes.

24 MR. FORTNER: With the court's permission, I would
25 like to ask the witness to read what she has prepared, Your

1 Honor.

2 THE COURT: Go right ahead.

3 A Okay. I am a proud daughter of Mark Longoria. This is the
4 hardest task for me to try and explain who my dad is to me and
5 what he has done for everyone that he loves throughout his
6 lifetime because the list goes on and on.

7 My goal is to show you who he is and what kind of man he is
8 and in my opinion what a disservice it would be to not only our
9 family but the community as well if he were sentenced. I don't
10 know a lot about his business but I do know the type of
11 business owner that he is and how he has always conducted his
12 business in the most professional manner possible and he will
13 go above and beyond to meet his customers' needs. He always
14 takes a phonecall whenever his phone rings. He always is
15 responding to e-mails. He always is in his office until
16 11:00 p.m.

17 For as long as I can remember my dad has always instilled
18 the right principles into us, but more than that, he has always
19 instilled what family means and how family is the most
20 important thing in life.

21 My dad is my favorite person in the entire world. Most
22 families nowadays are broken. Some daughters don't have the
23 opportunity to know who their dads are or to be loved by their
24 dads. But for my husband and I, my parents are our best
25 friends. We choose to hang out with them, just going to the

1 movies or grabbing dinner on Saturday nights. We chose to live
2 15 minutes away from them back in Houston so that we can see
3 them as often as possible.

4 The fact that we are here today almost feels as if it's not
5 even real, and I'm afraid I haven't even come to terms with the
6 possible outcome, because in my eyes my dad is not a criminal.
7 He has a pure heart with only the best of intentions, and if
8 you knew our family better than -- you don't know us, but if
9 you could know us, you would know just how close we are and how
10 much we lean on him. We call him when something breaks at our
11 house or if our car won't start. We count on him more than
12 anybody else. If there is one person that I ever call when I
13 need something, it's always my dad.

14 We have never been away from my dad for more than two weeks
15 from what I can remember, and that's just from him traveling
16 for work. He has morals and he values my education. At a
17 point in my college career I wanted to quit, but he steered me
18 back in the right direction because he wants the absolute best
19 for me. Over the next year, I will graduate college and have
20 babies soon after that. We will purchase our first house. My
21 sister will get married and start her life as well. Your
22 Honor, we are just starting the fun part of life, and we need
23 our dad here to witness all of it with us. I don't feel right
24 living life if he can't be physically there to experience it
25 all with me. He is the person I want to make proud the most,

1 but I can't do that if he is in prison.

2 My dad is our rock. My prayer is that you open your heart
3 to who he is as a person and to all of the good that he has
4 done in life, not just based off of one bad choice that led us
5 here today. My hope is that you would reason with everything
6 that's been presented today and give him anything but time away
7 from his family. If he doesn't get time sentenced, he can
8 continue working, tithing, giving to charities, serving others,
9 loving his friends and family and contributing to society in
10 all the other many ways that he does.

11 Today this is your job. You face cases all the time I
12 would imagine, but today this is the worst day of our lives,
13 and I just beg that you wouldn't take him away from us. He has
14 always been a fearless superman in my eyes, if you will, but I
15 have never seen him more ashamed or embarrassed than I have
16 now, and that kills me. Thank you.

17 THE COURT: Counsel, do you want to follow up with any
18 questions?

19 MR. FORTNER: I don't, Your Honor. I will tender the
20 witness.

21 THE COURT: Cross-examination.

22 MR. LAMARCA: I have no questions, Your Honor.

23 THE COURT: You are a sophomore?

24 THE WITNESS: I'm a junior.

25 THE COURT: Junior. Okay. Rising junior?

1 THE WITNESS: Uh-huh. Yes, Your Honor.

2 THE COURT: All right. Anything else you want to say?

3 THE WITNESS: That's it.

4 THE COURT: All right. Thank you so much.

5 THE WITNESS: Thank you.

6 MR. FORTNER: Thank you, Your Honor. We would call
7 Cameron Craig, Your Honor.

8 THE COURT: Okay.

9 CAMERON CRAIG,
10 having first been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FORTNER:

13 Q Would you tell us your name, please?

14 A Cameron Craig.

15 Q And how old are you, Cameron?

16 A I am 22.

17 Q And how are you related to the Longoria family?

18 A Savanna is my wife, and Mark is my father-in-law.

19 Q And when did you -- when were you and Savanna married?

20 A Three months ago.

21 Q And how long have y'all known one another?

22 A Five years, I believe.

23 Q So this has been -- this is a long-term relationship?

24 A Yes, sir.

25 Q You're in this for the long haul?

1 A Yes, sir.

2 Q Do you know the Longoria family? Have you spent time with
3 them?

4 A Absolutely.

5 Q Do you feel like you know your father-in-law fairly well?

6 A Absolutely.

7 Q What do you do for a living or school or what do you do,
8 Cameron?

9 A I do sales for a land surveying company and in and out of
10 school. I go to a community college in Houston.

11 Q And are you currently enrolled in community college?

12 A Yes, sir.

13 Q And are you also working full-time?

14 A Yes, sir.

15 Q And where do you and your wife, Savanna, live?

16 A Houston. About 15 minutes away from Mark and Kimberly.

17 Q Were you raised in Houston? Is that where you have lived
18 all your life?

19 A Yes, sir.

20 Q Did you also prepare something to read to the court?

21 A Yes, sir.

22 Q In the event you were allowed to testify?

23 A Yes, sir.

24 Q Would you like to do that now?

25 A Yes, sir. It would be impossible to impress upon you the

1 exact depth of character that Mark has that he displays on a
2 day-in and day-out basis and the impact that he has had on my
3 life. My dad actually died five years ago when I was in high
4 school, days, weeks before I met Savanna. So at that time I
5 did not have another person in my life who I could reach out to
6 and look up to, and I don't believe that it was by coincidence
7 that I met Savanna.

8 I was adopted into a family like I was already one of their
9 own. From the first day that I met him, Mark, until now, not
10 once has this man shown anything other than pure selflessness,
11 integrity and leadership. He quickly became a father figure to
12 me and continues to help me become the man that I know I can be
13 for my future family and for his daughter. He has always
14 instilled the right core values in me that my father did before
15 he passed. He would always talk about keeping your priorities
16 straight: God, country, family, business.

17 And like what's already been stated, Mark has always given
18 to the church 10 percent first always. He served his country
19 honorably as a young man and he has always put his family
20 first. No matter what the situation is, Mark has always stuck
21 up for his girls and for anyone close to him. He is a pillar
22 of strength that so many people lean on emotionally and
23 financially and so many other ways. He is a light in many
24 people's lives.

25 Savanna and I got married in November. It was a long

1 process to say the least. The only thing that he thought about
2 was giving his youngest the wedding that she had always wanted
3 and that she deserved.

4 My dad died suddenly when I was 18. And like I have
5 already mentioned, at that point I had no sense of direction.
6 I was failing school. I was working a minimum wage job. I had
7 no focus on where I was going, what I wanted to do with my
8 life. And Mark came in and stepped in when I needed him most.

9 Your Honor, I know it's your job. I know you must have all
10 sorts of different people come in here, different
11 circumstances, different cases. However, I doubt that you have
12 come across a family like this or a man like him. So please
13 show mercy and leniency when making a decision today.

14 MR. FORTNER: That's all I have, Your Honor.

15 THE COURT: Cross-examination.

16 MR. LAMARCA: None, Your Honor.

17 THE COURT: What's your major?

18 THE WITNESS: Cameron Craig.

19 THE COURT: Major.

20 THE WITNESS: Business.

21 THE COURT: What are you going to do with it?

22 THE WITNESS: Right now I do sales for a land
23 surveying company, so I would actually like to stay with the
24 current company I have, but I would like to have the degree
25 just for backup.

1 THE COURT: Any intentions, you or your wife, to get
2 an advanced degree?

3 THE WITNESS: I do want to. I want to graduate with
4 my associates from the community college that I am at right now
5 and go to U of H and finish up a bachelor's with just general
6 business management.

7 THE COURT: And your wife raised her hand back there
8 when I said advanced degree. Does she intend to get one?

9 THE WITNESS: She looks to get her master's in
10 psychology.

11 THE COURT: In psychology?

12 THE WITNESS: Yes, sir.

13 THE COURT: Great field. Have you done any work in
14 your area so far?

15 THE WITNESS: Any work for my current company?

16 THE COURT: In a business vein.

17 THE WITNESS: Just with my current company doing
18 sales. I reach out to civil engineers, architects, land
19 developers and talk to them about our service.

20 THE COURT: Now I'm going to ask you something about
21 this matter. How did you find out about all of this?

22 THE WITNESS: Mark and Kimberly sat me and Savanna
23 down at our house and told us the general situation, and that
24 was it.

25 THE COURT: Were other people there at the time they

1 told you?

2 THE WITNESS: Alexis Longoria was there.

3 THE COURT: And when you were told about this matter,
4 how was it presented to you?

5 THE WITNESS: They sat down with us. It was very,
6 very serious, very, very emotional, and I really didn't know
7 how to take it at the time. We sat down and we just realized
8 that was something that our family was facing at that time and
9 it was a time for us to pull together and be strong moving
10 forward and to deal with it.

11 THE COURT: Give me the backdrop as to how it came
12 about. Did he just say, Look, I have something I want to talk
13 to you, or was it a formal notification? What was it?

14 THE WITNESS: He basically just said, Hey, let's have
15 lunch. Him and Kimberly came over, we ate and then he sat down
16 with us and told us.

17 THE COURT: So just four of you there?

18 THE WITNESS: Alexis came over, my sister-in-law.

19 THE COURT: And do you know whether he repeated that
20 with other family members?

21 THE WITNESS: Yes. He had told them previously, I
22 believe, a few days before or a few weeks before.

23 THE COURT: Did you ask any questions?

24 THE WITNESS: No. No. I didn't ask any questions. I
25 really didn't know a lot about the field or anything about this

1 industry, so I didn't have any questions.

2 THE COURT: Did anyone ask any questions?

3 THE WITNESS: Not that I can remember, no, sir.

4 THE COURT: So then what did he say?

5 THE WITNESS: He just gave us a general outline of
6 what was going on.

7 THE COURT: He said he had been indicted?

8 THE WITNESS: Yes, sir. He said he had made a bad
9 decision.

10 THE COURT: He said he was indicted?

11 THE WITNESS: Yes, sir, I believe so.

12 THE COURT: Did you know at the time what an
13 indictment was?

14 THE WITNESS: Did I know what indictment meant? Yes,
15 sir.

16 THE COURT: And did he tell you what he was indicted
17 for?

18 THE WITNESS: Yes, sir.

19 THE COURT: And what did he say?

20 THE WITNESS: He said that he -- I couldn't tell you
21 exact terminology, but he said he had made a bad decision and
22 that he had done business with the wrong people and things like
23 that.

24 THE COURT: Did he say anything about signing
25 contracts or working with the Mississippi Department of

1 Corrections?

2 THE WITNESS: No, sir, not that I can remember, not
3 specifically.

4 THE COURT: So did you know where the crime allegedly
5 occurred? In this state?

6 THE WITNESS: Mississippi, yes, sir.

7 THE COURT: Did you know whether it concerned the
8 Mississippi Department of Corrections or some other entity?

9 THE WITNESS: I did not know.

10 THE COURT: Did you ask?

11 THE WITNESS: No, sir.

12 THE COURT: So as far as the outline of what had
13 happened, you really didn't ask anything at all and you really
14 don't know much about this. Is that so?

15 THE WITNESS: Right.

16 THE COURT: What about right now? Do you know much
17 about it?

18 THE WITNESS: I couldn't repeat back to you what's
19 going on in the court today.

20 THE COURT: You said you couldn't?

21 THE WITNESS: Right.

22 THE COURT: And so you and your wife when you all seek
23 to talk about this matter, then what do you talk about?

24 THE WITNESS: Just that he has made a bad decision,
25 that I know that he is very repentant of it. And I'm just here

1 to talk about his character, to talk about the integrity that
2 he has as a man, how he conducts his business and things like
3 that. As far as the specifics and the transactions that were
4 made and all the different people and entities that are a part
5 of it I don't know much about.

6 THE COURT: But you see when people are character
7 witnesses, it's fair game to ask them what do they know about
8 the crime itself.

9 THE WITNESS: Sure.

10 THE COURT: Because that might be a factor the court
11 weighs as to what the character witness actually knows about
12 the person.

13 THE WITNESS: Yes, sir.

14 THE COURT: And so while I'm asking these questions,
15 I'm just asking what do you know about this matter, because
16 then, you see, I could follow it up by asking you that if you
17 know all the details about this matter, especially from the
18 prosecution's standpoint, would you still say the same thing
19 about his character. You see why I'm asking?

20 THE WITNESS: Yes, absolutely.

21 THE COURT: So I'm just asking, you know, about that.
22 And the reason I'm asking you some of these questions that I
23 did not ask your wife is because I enjoyed her letter but I saw
24 that she was also very emotional and I didn't want to add to
25 her emotional state. Had you been under the same emotional

1 state, I wouldn't have asked you either, but you appeared to be
2 a bit stronger at this point than she on this matter, because
3 when she finished testifying, I could tell that she was quite
4 distraught as one would be under these circumstances. So
5 that's why I didn't ask her more questions about it. But I
6 just asked you that, so I see now what you know and don't know.

7 I will just give you an opportunity to say anything
8 else you want to say on behalf of your father-in-law. Anything
9 else you would like to say on behalf of your father-in-law? So
10 think deeply and just tell me is there anything else you and
11 your wife may have discussed.

12 THE WITNESS: I believe that throughout the five years
13 that I have known Mark, he has always acted with integrity,
14 definitely outside of his business. Like I said, I don't know
15 much about his business, but everything outside of his business
16 he has always acted with integrity and honesty and he has
17 always instilled those principles in me as a man and as the
18 leader in my future family. With everything that's going on
19 right now, I can only assume that it was just a mistake and
20 that, like Savanna was saying, he would never ever jeopardize
21 that ever again in his business. Whatever extent he has to go
22 to to make sure that this never happens again, he would go to
23 it, because spending time with his family and the more
24 important things in life, those are more important than money
25 or business or anything.

1 THE COURT: All right. Thank you. You can step down.
2 Savanna, you wanted to say something else, didn't you? If you
3 do, come on back up.

4 (SHORT PAUSE)

5 THE COURT: Go ahead and take the chair. You don't
6 have to be sworn again. You are still under oath, Savanna.
7 All right? Now, I'm calling you Savanna because your last name
8 is Craig.

9 THE WITNESS: Yes, sir.

10 THE COURT: So I can either say Mrs. Craig or I can
11 say Savanna, and you have been referred to several times here
12 as Savanna. So I took the liberty of saying Savanna, but I
13 don't mean to disrespect you.

14 THE WITNESS: No, that's fine.

15 THE COURT: So, Mrs. Craig, do you have something else
16 you want to say?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Go ahead.

19 THE WITNESS: My husband doesn't remember, but I did
20 ask a few questions when they did come and tell us. I do
21 remember better. If you did want to ask me questions, I'm
22 comfortable answering them. But I did ask some questions.

23 THE COURT: Tell me what you remember.

24 THE WITNESS: When they came over, we finished eating
25 and then he opened by saying there is something going on with

1 your mother and I. And then, you know, automatically -- I
2 don't know, because it's out of character that this is
3 happening. Our whole family is in shock about the whole
4 situation because it is 100 percent out of character. And
5 divorce was out of character, too, so I thought somebody was
6 sick or we didn't know what to think.

7 And they told us a basic summary of everything, and he
8 did tell us that he admitted that he was guilty. He did tell
9 us that. And the only really thing that I got out of it was
10 that prison time was a possible outcome. So I wasn't really
11 focused on everything that had happened or all the details, but
12 I did ask what's the next step. I'm kind of like my dad in
13 that way of wanting to know this is the situation, how do we
14 deal with it, what do we do next. So I did ask when will we
15 find out what's going to happen. I asked for how long. I
16 asked which prison if he was going to be sentenced. I wanted
17 to know where he was going to be if he was going to be in
18 Houston or where. But those were the main questions that I
19 asked.

20 THE COURT: Were you satisfied at the answers?

21 THE WITNESS: No, because they didn't really know.
22 They told me that the prison could be anywhere and that it
23 could be zero to five years is what they told us. So I found
24 hope immediately when they said zero to five, and that's kind
25 of where we have been focused thus far. I haven't really

1 processed it up until today.

2 THE COURT: Now, did you ever ask why did he do it?

3 THE WITNESS: I never asked why, but I know -- well,
4 my dad would do anything to support his family, but he would
5 never do anything to jeopardize his time with his family.

6 THE COURT: I don't understand the answer then. You
7 are saying he didn't appreciate that he could actually face
8 prison?

9 THE WITNESS: What was the question?

10 THE COURT: You are saying that he didn't appreciate
11 that he could face prison for that?

12 THE WITNESS: No, he knows that he could.

13 THE COURT: No. What I mean is at the time that he
14 indulged in this criminal conduct, you are saying that he
15 didn't really know that he could actually, if he was revealed,
16 could face prison time?

17 THE WITNESS: I don't know.

18 THE COURT: Well, see, you made a comment and you said
19 that he wouldn't do anything that would take him away from his
20 family. So does that mean that at the time that he was
21 involved in this matter he didn't think that even if it came to
22 light that he could be taken away from his family?

23 THE WITNESS: I don't know. I just know that from my
24 opinion of who my dad is he would never want to spend time away
25 from us.

1 THE COURT: That's what I'm saying. That's what I'm
2 asking about, that he wouldn't want to spend time away from you
3 all, but then if he was in the process of committing a crime,
4 then are you saying that he would know that the possibility is
5 that if charged he could spend time in prison but yet he would
6 never do anything that would expose him to that?

7 THE WITNESS: I don't know if he knew that that would
8 be an outcome.

9 THE COURT: Okay. Well, you see what I'm asking,
10 though?

11 THE WITNESS: I do understand. I just don't know.

12 THE COURT: Because if you don't want to be apart from
13 your husband, then that means that there are -- there is a
14 certain type of conduct that would never be attractive to you.
15 So if somebody came along and offered you an opportunity to
16 make some money but nevertheless that opportunity would expose
17 you to the possibility that it's a criminal matter and if that
18 matter is charged you could actually go to prison, that means
19 you would be away from your husband.

20 THE WITNESS: Uh-huh.

21 THE COURT: So that means that you would never ever
22 consider that. Am I right?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: So what I'm asking then is when you say
25 that you know your father never wanted to be apart from his

1 family, then I'm asking that same question is that did he ever
2 explain to you why with that in mind that he never wanted to be
3 away from his family, never wanted to take a chance on doing
4 anything that could separate him from his family by going to
5 prison that he would actually get involved in this matter.

6 THE WITNESS: He didn't explain why. I just mean that
7 I know he would never do anything again that would compromise
8 his time with us.

9 THE COURT: Okay. And then you are not telling me
10 that he was under any duress, because that is a defense for
11 someone to get involved in certain types of crimes, so he is
12 not saying he was forced to do anything.

13 THE WITNESS: Nuh-uh.

14 THE COURT: And from his financial status it doesn't
15 appear that he was looking for some finances to desperately
16 support his family because it appears he had finances. So the
17 question looms as to what was the motivation to get involved in
18 this in the first place. Now I'm asking these questions
19 because remember, just like your husband said, I have to make
20 some determination about your father. And just as your husband
21 said, I should try to get to know everything I can about him so
22 I can make a fair ruling which encompasses him, you know, the
23 he who he is. You see? And who is this person.

24 So then a person in my position would always ask what
25 is the motivating factor here. You know, some people commit

1 crimes because they are just greedy, they just want money.
2 Others commit violent crimes because they are just mean. Then
3 there are those who commit crimes for other reasons but they
4 are not legal, but nevertheless sometimes you can understand
5 why they did what they did, at least an explanation. So here,
6 when I allow character witnesses, when I allow character
7 letters, I'm always looking for more information about that
8 person because I want to fashion a sentence which is -- that
9 benefits society but also takes into account the individual
10 himself. So I always want to know more about the person, which
11 is why I am open to character witnesses, because when they come
12 in, I want to hear all I can.

13 So in a matter like this, the question I have, and I
14 can tell you what that is, the basic question, what motivated
15 your father to do what he did with such a loving, supportive,
16 wonderful family around him where he takes the chance on going
17 to prison. What is it? What's that factor? You see now?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: So then the rest of it sort of falls in
20 place. So you can tell me how he is in the community. That's
21 wonderful. That's great. This matter of tithing. That's
22 wonderful. The pastor comes in and talks about him and says
23 wonderful things. His brother comes in and says wonderful
24 things. But I have asked this question more than one occasion,
25 and that question has been: What is your theory as to what

1 motivated him to do this? You see now? And I have asked the
2 pastor what did he know. I asked his brother what did he know.
3 And then in these letters, I have gone through what has been
4 submitted to me. I have read the presentence investigation
5 report. I don't know if you know that we get a presentence
6 investigation report. Do you know anything about that? If you
7 don't know, you are not expected to know, but do you know?

8 THE WITNESS: I know that there was one other meeting
9 like this.

10 THE COURT: But do you know the report that I get?

11 THE WITNESS: No, Your Honor.

12 THE COURT: You see this? You see all these pages
13 here? Now, I have here -- unless your father or his lawyer has
14 an objection, ask him to show you his report, because this
15 report is pretty detailed. It has in here a whole lot about
16 his life, where he grew up, his family. It has information
17 here about this crime. It has here any co-defendants, related
18 cases.

19 Then it has a section starting on Page 6 with the
20 offense conduct here which goes on to Page 7 and 8 and give an
21 idea about all of the persons who were involved in this. And
22 then on Page 9 it starts off with the victim impact, like what
23 impact all of this had on the persons or victims who are
24 involved here, namely the State of Mississippi and the
25 Mississippi Department of Corrections. And then there is a

1 matter here for adjustment of acceptance for responsibility.
2 That is where a defendant has a chance to explain whether that
3 person feels like he actually is guilty, because a lot of
4 people want to plead guilty but don't want to admit that they
5 really are guilty. So then they can leave the court and say, *I*
6 *just did it because I could get a lesser sentence but actually*
7 *I'm not guilty.* But see, here in federal court, they are
8 interviewed by the probation officer who sits over here, and
9 the probation officer asks these various questions. So then in
10 this Paragraph 32, your father acknowledged the accuracy of the
11 factual basis which was read into the record at the plea
12 hearing. He expressed remorse for his actions, and he notified
13 the government of his intentions to plead guilty which says
14 something in his favor.

15 And since I'm operating on points, then you have some
16 points for the crime. You have points for any aggravating
17 feature of the crime, which means I take into account the
18 amount of money involved, and that might bring in some more
19 points. And then with regard to any mitigating factors, those
20 factors where the court says that's in his favor, I subtract
21 any of those facts. So for acceptance of responsibility, he
22 gets some mitigating points, so you subtract those. And then
23 with regard to all of that, he goes into his personal and
24 family data. It tells me when he was born, to whom and where;
25 that he is the older brother -- his older brother is Danny

1 Longoria and his age and where he resides and where he works.

2 And then I have his childhood, and they talk about his
3 childhood because he is interviewed on all of this. And then
4 after that, it talks about his marriage and his children. You
5 are mentioned and all of that's in there. His personal
6 condition, his physical condition is in here, his mental and
7 emotional health is in here. Whether he has ever abused
8 substance is in here. That includes alcohol or any other
9 intoxicating substance.

10 And then in here there is whether he has educational,
11 vocational or special skills. And I have all of that in here.
12 I have his employment record that goes all the way back to
13 2004. And then I have his financial ability to pay. So I have
14 all his finances here. I know what he owes on everything. I
15 know what his liabilities are. I know what his assets are. I
16 know what his net worth is. All of that's in here. I know
17 what his monthly income is. That's all here. I know what his
18 monthly expenses are. So all of that's in here. I know when
19 he paid his income taxes. I know how much he paid on his
20 income taxes.

21 So, you see, I have all of that here in the record.
22 So when a character witness wants to come, I'm looking to see
23 if that character witness is going to tell me something that
24 takes me beyond this, because, you see, the probation officer,
25 as hard as they work, they can't go out in the community and

1 interview everybody and try to find out every little iota of
2 that individual. So a character witness can help me and then I
3 can learn something.

4 Now, just as a character good witness can come to
5 court, a bad character witness can come to court if somebody
6 wants to say something bad about the defendant. To my
7 knowledge, nobody signed up to say anything bad about your
8 father. So all the character witnesses who are expected to
9 testify would be witnesses who wanted to offer something good
10 about your father. So I have been taking copious notes about
11 what everybody has said. I have asked some questions. You
12 have heard me ask questions, but those questions are to feel
13 out the character witness as well as to hear what each witness
14 has to say. Just because I have asked a question or two to the
15 character witness doesn't mean I'm challenging the character
16 witness. It merely means that if someone is going to come here
17 and offer something great about the person on trial, I want to
18 know something about the person who is talking so I can know
19 something about them, too. So then I can see what their
20 experiences are.

21 So this is my presentence investigation report. This
22 report is 19 pages. As I said, it starts off with his picture,
23 his date of birth, his age, his race, his sex, his education,
24 his dependents, his citizenship, his religious preference, his
25 country of birth, his place of birth, his legal address, his

1 residence address and whether he has ever used any aliases.
2 That is on the first page. Then you see it is written up from
3 there. Then I have all this narrative after that. You see
4 now?

5 Now, I read every page of my presentence investigation
6 reports. If my probation officer back there takes the time to
7 pull all of this information together, then I'm going to take
8 the time to read it. So I read it in-depth, and I highlight,
9 underline and all of that. I have actually had cases where
10 people have come in and thought to be character witnesses and
11 they say something which is totally contradictory to what I
12 have in here. And then I have told them that it does and given
13 them an opportunity to know where I'm coming from, because I
14 don't want to ambush them and then later say that they said
15 something that was inaccurate when they didn't know that I had
16 all of this up here and they might be right. What they might
17 have is something my probation officer might not have known.
18 And so I try to fill in all the gaps about this.

19 So that's how I proceed, because I take sentencing
20 extremely seriously. This is where the court can impose upon a
21 defendant and cause that person to be denied liberty. But not
22 only that, but the person also in the process suffers another
23 punishment, being convicted of a felony. And being convicted
24 of a felony by itself carries some results. You can't carry a
25 firearm, can't apply for government jobs and all those kinds of

1 things. And in his position after all of this is over, he
2 might not be able to get any federal contracts. So we will see
3 how that works out. But, you see, there are a lot of other
4 drastic effects which come with being a defendant in a court.
5 And I try to find out everything I can because I just don't
6 walk into court and just say this is the sentence and walk back
7 out. I have a conscience, and I want to make sure that at
8 night when I go to sleep I'm not troubled by something I have
9 done in court. And if I feel like I need more information, I
10 will not hesitate to stop the court and try to get an answer to
11 my question, either way it goes.

12 But now, in this instance, I have to look at the
13 impact on society about the crime. I have to look at the
14 impact upon the defendant. I have to try and look at all the
15 other factors that went into the crime as well as all the
16 factors which counsel one type of punishment or another. And
17 see, I have to look at deterrence, that is, whether the
18 sentence deters others in the same situation. I have to look
19 at whether a sentence reflects society's disdain for this type
20 of crime. But then I also have to look at rehabilitation as to
21 whether a person should be in need of rehabilitation.

22 Now, in your case, your father's case, we are not
23 looking at whether he is a danger to society, because if so,
24 then I have to look at restraint, and I don't have to look at
25 that factor here because there is nothing to say that he has --

1 that he poses any kind of danger. So I'm looking at all of
2 those factors and try and weigh them and look at them and see
3 where we are. Now, I don't take a poll of the public to see
4 what the public's pulse is on a particular matter because I
5 have been entrusted with the spokesperson for the public to
6 make that decision as a judge. And so it is imperative that I
7 take to heart that responsibility. So then when I see a
8 character witness, then I want to know what am I looking at.
9 And so then I want to know is the defendant really remorseful.

10 Now, your father has already pleaded guilty, so he
11 said he did it. He told the probation officer that he is
12 remorseful for what he did. But you notice I also asked how
13 much in detail did he talk to you and your husband about this
14 matter, for instance.

15 Now, I also asked the minister did he talk in detail
16 about what he had done about this matter, because in closing on
17 my little talk here, there is one thing that -- not one thing.
18 There is a matter which constantly bothers the court is after I
19 have sentenced someone and then I hear in the community how the
20 person was not really guilty of anything, because the public is
21 not here and they don't read the trial record and they don't
22 know the person confessed to the crime, and then the person
23 after having gotten some sentence then wants to go back and
24 state to the community how innocent he or she was the whole
25 time, in which case you know the person never was remorseful

1 and instead the person then undermines the criminal justice
2 system by saying, *I got sentenced on something and I didn't do*
3 *this and I didn't do that*. I mean I have seen it so often how
4 people do that. So you heard me ask the question about what
5 did he say that he did. And so that's why I was asking the
6 question, trying to know more about your father. You see?

7 Now, and I also told you when you finished talking a
8 few moments ago and got off the stand, you appeared to be
9 emotional. And I can understand that. Really I can. I mean
10 it's quite easy to understand your emotionalism on this, having
11 to sit there. You never dreamed that one day you would be
12 sitting there testifying in court for your father. I know you
13 never dreamed about that, so I know this has to be trying for
14 you. But I also asked you right at the end is there anything
15 else you want to say, because I'm open for anything you want to
16 tell me so I could flesh out my report. What you have said
17 already is how much you love your father, how shocked you are
18 about this because he raised you the right way and he instilled
19 in you certain virtues that you have subscribed to and that
20 this is a surprise to the entire family, destructive to the
21 family in one sense because if he is removed from the family
22 embrace how badly that would hurt all of you because you depend
23 so much on him and how he is a go-to guy in times of need and
24 all of that. I took all of that in. So again, is there
25 anything else that you would like to say? Then please say it.

1 THE WITNESS: No, sir, Your Honor.

2 THE COURT: Okay, then. But I thank you for coming
3 here to share with me what you had to say. Okay?

4 THE WITNESS: Thank you.

5 THE COURT: Mr. Fortner, I allowed those two because
6 you said they had to leave. Was there one more who can't be
7 here tomorrow?

8 MR. FORTNER: No. There is one more who can't be here
9 tomorrow, Judge.

10 THE COURT: If there is one more who can't be here
11 tomorrow --

12 MR. FORTNER: And I only have one other short one
13 after that.

14 THE COURT: Still, if you have one more who can't be
15 here tomorrow, my court reporter has been going strong all day.
16 We seem to do this often where we are going late in the
17 afternoons because I always want to take just one more. So
18 call her forward. Let's take her and we will start back at
19 9:00 in the morning. But let's have her, because I want
20 everyone who came to testify to be able to.

21 MR. FORTNER: This is Alexis Longoria, Your Honor.

22 THE COURT: Okay. Right here.

23 ALEXIS LONGORIA,
24 having first been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. FORTNER:

2 Q Would you tell us your name, please?

3 A Alexis Longoria.

4 Q Okay. You're going to have to move towards the microphone
5 and speak up a little bit.

6 A Alexis Longoria.

7 Q And how old are you?

8 A I'm 24.

9 Q Alexis, are you married or single?

10 A I am engaged.

11 Q And when are you scheduled to be -- when is your wedding
12 scheduled for?

13 A April 8, 2017.

14 Q Alexis, are you the daughter of Mark and Kimberly Longoria?

15 A Yes.

16 Q I'm sorry. I know I asked you. How old are you?

17 A 24.

18 Q Have you graduated from college?

19 A I have.

20 Q What school? What college did you graduate from?

21 A I graduated from University of Houston.

22 Q And what was your degree in?

23 A I have a bachelor of science in communication sciences and
24 disorders with a minor in sociology.

25 Q And do you currently -- are you currently employed?

1 A Yes.

2 Q And where do you work?

3 A I work at the parish school.

4 Q And what is your -- what do you -- are you employed as a
5 teacher?

6 A My title is a paraeducator. I am a licensed speech
7 language pathologist assistant.

8 Q Do you work with young children?

9 A Yes. First graders.

10 Q Is it all first graders?

11 A Yes.

12 Q Okay. And you have been working there for how long now?

13 A Since August 1st, 2016.

14 Q Okay. Now, would you tell the court how you came to find
15 out about your father's legal trouble, his legal situation?

16 A Yes. My fiance and I were going to book a venue for -- we
17 were looking at May of 2018. And my parents asked us to come
18 and talk to them before booking anything. From the way my mom
19 said that, we needed to come now and talk that night about it.

20 I knew it was something serious. I never thought it was
21 this. I thought kind of like my sister that someone was sick.
22 I knew that because it had something to do with the timeframe
23 of booking our wedding that it was either, like, going to be --
24 I don't know. I thought someone was really sick and that they
25 were going to say we needed to move the wedding up because of

1 that.

2 Q Okay. Is your family a close -- are you close to one
3 another?

4 A Yes. Very.

5 Q Alexis, what is the name of your fiance?

6 A George Trigaris (phonetic).

7 Q He is in the courtroom with you today?

8 A Yes, sir.

9 Q Now, tell us what your parents or what your father told you
10 was the problem.

11 A They said that they wanted to talk to us about -- he said
12 that they had been dealing with something for a while but that
13 he felt that to be fair to me he had to tell me before booking
14 this venue that he may not be here to walk me down the aisle.

15 Q And what did he tell you? Where else might he be?

16 A That's when he told us that he may be facing prison time.

17 Q Did he explain to you why?

18 A Yeah. I was kind of taking in so many different things,
19 you know. I got there thinking that someone was going to say
20 they had cancer or something. And then I was, you know, had
21 looked at several venues that week, and so the wedding planning
22 was on my mind, and so many things were going on that I heard
23 what he was saying, and it's -- you know, I don't know all of
24 the -- that's not my field, so a lot of things they said I
25 didn't fully understand. He said that -- he mentioned the name

1 Cecil. I have never met Cecil.

2 Q He mentioned who?

3 A Cecil.

4 Q Okay. Cecil?

5 A Yes. Sorry. Am I saying it wrong?

6 THE COURT: I believe she is talking about Cecil
7 McCrory.

8 THE WITNESS: Yes.

9 BY MR. FORTNER:

10 Q Did he tell you that he had pled guilty to committing a
11 crime?

12 A He did.

13 Q Did he go into very much detail about the crime, or did
14 he -- was it a statement of that --

15 A I did -- I did understand that there was a transaction and
16 then that there was I guess what y'all are referring to as a
17 bridge, that there was not enough ordered and they needed to
18 order more. But as far as -- I don't fully understand
19 everything.

20 Q Okay. Do you understand that it involved some sort of
21 dishonesty on the part of your father?

22 A Yes. He told us that.

23 Q And how did that make you feel?

24 A I mean I hurt for my dad. I have never seen him, you know,
25 embarrassed or ashamed, you know, not wanting us to share this

1 with anyone outside of our family. I think kind of, too, I
2 know, Your Honor, that you had asked my sister and my
3 brother-in-law, you know, kind of why they didn't ask more
4 questions. For me, I know that I didn't really ask maybe as
5 many questions is because I could see that my dad was so down
6 and so hurt and ashamed already that I didn't think it was
7 necessary for me to put him through that or have him explain
8 anything to me further than what he had already said.

9 Q Did your father tell you that there was the possibility
10 that he could go to prison?

11 A Yes.

12 Q Then you understand that?

13 A Yes. We moved our wedding up an entire year just, you
14 know, in hopes that maybe there is a possibility, you know.
15 God forbid, you know, depending on the sentencing, we didn't
16 want it a year out.

17 Q Alexis, how has this affected -- when you look at your
18 father, how has this affected him?

19 A I mean he has aged more over this past year. I have never
20 seen him cry until this year. I know that he, you know,
21 just -- he is very much the man of our family, and I know this
22 is crushing him.

23 Q And how has this affected your family?

24 A When they told me, I thought I was going to get sick. I
25 didn't sleep good. I didn't want to be around a lot of people.

1 I wanted to stay home. I was more attached to them. I wanted
2 to be near them.

3 Q I noticed that you have written out some words on some
4 paper. Correct?

5 A Yes.

6 Q Is that something you would like to share with the court or
7 have you --

8 A I'm sure. Yes.

9 Q Why don't you read it, then.

10 A As I have stated, you know, all of this scares me from the
11 moment my parents sat us down to trying to plan our wedding and
12 not knowing if my dad is going to be here to walk me down the
13 aisle to being in a courtroom for the first time in my life and
14 for it to have to be here to defend my dad's character. I love
15 my dad. He has taught me how to swim, how to ride a bike, how
16 to drive a car. He has been there for every cheer practice,
17 every flat tire. And now I am praying that he will be here for
18 our wedding and for everything, for having kids, for holidays.

19 It breaks my heart because my dad is a good man. He is a
20 man of his word, and he works hard. I know he loves us very
21 much. And actually I don't know if someone mentioned it
22 earlier or not, but today is my parents' 29th wedding
23 anniversary. When I think about my fiance and I and what kind
24 of marriage I want us to have, I look up to my parents. They
25 are honest with each other, true to each other, and they enjoy

1 each other's company.

2 It's unfortunate that this is happening, but please take
3 into account that my dad's punishment began when the FBI showed
4 up at our door. This past year has turned our world upside
5 down. I know it can be easy to hear what people say or read
6 something and then, you know, feel like everything is there or
7 like it could be cut and dry or black and white, but there are
8 gray areas. I work with kids who have speech and language
9 disorders as well as other learning differences, and I work
10 closely with a team of speech therapists, occupational
11 therapists, a neurologist, a child psychologist, and we do that
12 in order to look at the child as a whole. So I'm asking that
13 today you look at my dad as a whole, that you look at how he
14 was raised, how he served in the Army, how he has always given
15 to the church, his marriage with my mom, how he raised my
16 sister and I and how we need him here with us.

17 Q Alexis, let me ask you. Do you believe that your father
18 understands that he committed a crime, that he did something
19 wrong, broke the law?

20 A I do.

21 Q You believe he recognizes that?

22 A Yes.

23 Q Do you believe he is sincerely remorseful for that?

24 A Yes, very.

25 MR. FORTNER: We tender the witness, Your Honor.

1 THE COURT: Cross-examination.

2 MR. LAMARCA: I have no questions, Your Honor.

3 THE COURT: All right. Anything else you want to say?

4 THE WITNESS: I think that pretty much sums it up.

5 THE COURT: All right. Thank you so much.

6 THE WITNESS: Thank you.

7 THE COURT: Mr. Fortner, you said you have one more
8 witness?

9 MR. FORTNER: Just one more, Your Honor.

10 THE COURT: Call your witness.

11 MR. FORTNER: We would call Kimberly Longoria.

12 **KIMBERLY LONGORIA,**

13 having first been duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 BY MR. FORTNER:

16 Q Could you tell us your name, please?

17 A Kimberly Longoria.

18 Q How old are you?

19 A 49.

20 Q Where do you live?

21 A Houston, Texas.

22 Q How are you related to Mark Longoria?

23 A He is my husband.

24 Q How long have y'all been married, Kimberly?

25 A 29 years today.

1 Q Okay. When all of this first -- do you work in the
2 business, in the Drug Testing Corporation?

3 A A little bit I do, yeah.

4 Q And is this a business that Mark runs from home?

5 A Yes.

6 Q And how long has he been doing this kind of work?

7 A Oh, gosh, 20 plus years or more years than that, but the
8 DTC 20 plus.

9 Q And y'all have been married 29 years today. Is that right?

10 A Yes. Uh-huh.

11 Q Kimberly, when -- were you present when the FBI agents came
12 to the house the first time?

13 A Unfortunately, yes, I was.

14 THE COURT: We can't hear you. You need to speak
15 directly into that microphone.

16 A Yes, I was.

17 THE COURT: Go ahead now.

18 BY MR. FORTNER:

19 Q Were you present?

20 A Yes.

21 Q Okay. And were you present while they questioned Mark,
22 asked him questions?

23 A For the most part, uh-huh. When I wasn't, I was in the
24 bedroom so I could still hear everything.

25 Q Okay. Now, after that, did y'all begin to look for a

1 lawyer?

2 A We did.

3 Q And when Mark came to see me the first time or talked to me
4 on the phone the first time, were you involved in that
5 telephone conversation? Was that on a speakerphone at your
6 house?

7 A Yes. Uh-huh.

8 Q And we had a fairly lengthy conversation. Did we not?

9 A Yes.

10 Q And how soon after that did you and Mark drive over from
11 Houston to Hattiesburg to meet with me?

12 A Pretty promptly. I would say within the week, I believe.

13 Q Okay. Now, I was -- we had a somewhat lengthy meeting when
14 you first came over to see me. Is that correct?

15 A Correct.

16 Q And I let you know that I was leaving the country for a
17 month. Is that correct?

18 A Right.

19 Q Okay. And did you go ahead -- did you and Mark retain me
20 to represent him at that time?

21 A Yes.

22 Q All right. Now, once I returned and met with the
23 prosecutor and the FBI agents, we had numerous -- you and Mark
24 and I had numerous telephone conversations. Is that correct?

25 A Yes.

1 Q All right. At some point did Mark make the decision to
2 plead guilty to the charge?

3 A He did.

4 Q And did you back him on that decision?

5 A Yes.

6 Q Did you feel like that was the right decision?

7 A Yes.

8 Q Did he in our conversations recognize that he had broken
9 the law and committed a crime?

10 A Yes.

11 Q And did you come here to court with him when he pled
12 guilty?

13 A Yes.

14 Q And have you continued to participate in our telephone
15 conversations when I would speak with him on the phone quite
16 often?

17 A Yes.

18 Q Correct?

19 A Yes.

20 Q And how did you and Mark go about telling your daughters
21 about this?

22 A We sat them down one at a time separately. We had planned
23 on doing it together, but the way circumstances played out, we
24 sat with Alexis and George one night and then Savanna and
25 Cameron on a different night.

1 Q Okay. And at that time did y'all tell them what was going
2 on legally with Mark's situation?

3 A We did.

4 Q And did Mark admit to his daughters that he had, in fact,
5 pled guilty to committing a crime?

6 A Yes.

7 Q And did you make them aware of possible sentencing?

8 A We did.

9 Q Prison and so forth?

10 A Yes.

11 Q Were you as forthright with them as you felt like you could
12 be?

13 A Yes.

14 Q And did Mark talk to them, or did you talk to them?

15 A We both sat with them, but Mark did most of the talking.

16 Q Is your family, your daughters, you and Mark, are you a
17 close-knit family?

18 A Very much so.

19 Q And what has happened let's talk about financially as a
20 result of this situation. You had some retirement accounts, so
21 forth. Is that correct?

22 A Yes, that were frozen. He can no longer do -- we receive
23 letters where they are frozen and they are not letting him do
24 any more trading and that kind of thing.

25 Q And has some of those accounts closed and will you end up

1 suffering financial penalties as a result of that?

2 A Yes.

3 Q Have you even -- have y'all even been able to figure out
4 the extent of the financial harm that's going to be done to
5 your financial situation?

6 A Not really. We're just going day by day. We get these
7 different letters through the mail.

8 Q Is the business still operating?

9 A It is.

10 Q Has the amount of business you have been able to do fallen
11 off because of this?

12 A Yes. Some of it has, but we're still going along.

13 Q You're still paying your bills?

14 A Uh-huh.

15 Q Doing the best you can?

16 A Yes.

17 Q And how has this affected your husband?

18 A Enormously. Emotionally. Like my girls said, he is the
19 strongest man I have ever known, and I have never seen him
20 crying so much. He uses the words ashamed, which I won't. I
21 am still very much the proud wife because I know the real Mark,
22 but it's affected him, you know, with work, with his girls,
23 with everything. But we are standing by him because I know the
24 real Mark Longoria. Yes, he has made a mistake and he is
25 owning it, but it has definitely affected him in so many ways.

1 Q Do you believe that he has owned up to his mistake?

2 A Absolutely.

3 Q Do you have any doubt that he would make the same mistake
4 again in the future?

5 A Most definitely not.

6 Q Why not?

7 A Because it's affected him in so many ways.

8 Q Because what?

9 A Because it has affected him so much and he knows it was
10 wrong. And I know I hear the judge ask why, and I think maybe
11 it's speculating for me, but I think the biggest thing and
12 maybe it's not a good word but I think it maybe would be
13 ignorance on his behalf. I think maybe he didn't realize the
14 illegal behalf on his part. I think he thought, you know,
15 that's Cecil's bad. You know, he was paying the consultant.
16 But I think he thought he never paid a dime to Epps so I think
17 he just thought that was Cecil's bad. I don't know. That's
18 just my opinion.

19 Q I understand. Do you believe that he now understands that
20 it was his bad?

21 A Oh, yeah, he found out and I think that's why I know he
22 would never ever do such a thing again because he certainly
23 learned that it was his bad and it is definitely his mistake,
24 and that's why I know he would never do that again.

25 Q Kimberly, do you have anything else that you want to say to

1 the judge?

2 A I had written something. I don't even know if I will be
3 able to read it or if I will stick to it. Every time I go to
4 look at it again, I change it, but it was just something I
5 wrote that I will try to read if that's okay.

6 THE COURT: That's fine. Go right ahead.

7 A Okay. Your Honor, first of all, I can hardly express how
8 nervous I am. Like my girls said, this is so out of the
9 ordinary to even be in a courtroom. I think the first time I
10 was was when I came with him back in June or July when I was
11 here. So I wrote this down.

12 I was a shy girl that grew up in a small town. I would
13 rather take a bad grade than get up and read a report, but I'm
14 going to try to read this, so please bear with me.

15 The fact that we are even here makes my stomach turn, but
16 as we stated, today is our 29th wedding anniversary. We were
17 married on February 13th, 1988, when I was just 20 years old.
18 And to be honest, I have never been on my own ever since that
19 day that I left my parents' home. And since Mark and I have
20 married, other than for short business trips, we have never
21 been apart.

22 Your Honor, I'm here to plead with you to please not take
23 this man from me and our daughters, Alexis and Savanna. He is
24 literally the half that makes me whole. I don't know how to do
25 life without him. And to be honest, my biggest fear is that I

1 will walk out of here today without conveying enough to you the
2 importance of keeping my husband and father of my daughters out
3 of prison and here with us, the ones who truly know, love and
4 depend upon him.

5 I remember when we first told our daughters of this and we
6 explained to them that they could write letters on their dad's
7 behalf, our youngest daughter, Savanna, asked if they could
8 present some of our home videos and that way you could see and
9 really appreciate a small insight to our lives, our birthday
10 celebrations, graduations, anniversaries and most recent her
11 wedding so that you could see that life without their dad would
12 leave a hole in our hearts and in our lives as he is as God
13 would have him to be our sole provider, leader, example, head
14 of our household and the reason we are the family that we are
15 today.

16 Your Honor, I plead with you to please grant not only Mark
17 but our entire family the utmost leniency on us here today. I
18 have never had to depend on anyone or ask anyone for anything.
19 Usually we are the ones helping people. My husband has always
20 worked hard and provided for me, whether it has been our family
21 home or a mobile home, and suddenly these thoughts are
22 consuming me. For 29 years we have sat together in church
23 every Sunday. The thought of going alone is unimaginable. We
24 are the old-fashioned couple who come from long-lasting
25 marriages, and that's what we pray for ourselves as well as for

1 our daughters.

2 My paternal grandparents were married for 70 years, my
3 maternal grandparents for 66. My in-laws are currently at 59
4 years and my parents are at 54. I remember when Mark and I
5 met, he asked me what I wanted to be. And I said to him, *You*
6 *are probably going to laugh at me but I just want to be a*
7 *housewife and a mom.* And through much sacrifice, he and God
8 have granted me that life. I have never paid my own bills or
9 fixed a flat tire or bought a car because these are the things
10 that he, as head of our household, has always done for me and
11 our daughters. He has always taken care of not only our girls
12 and myself but literally anyone --

13 THE COURT: Slow down just a little bit. He has
14 always taken care of me and my daughters. Just slow down some.
15 Go ahead. You don't have to rush.

16 THE WITNESS: Okay. He is always taking care of not
17 only our girls and myself but literally anyone who presents a
18 need. My best friend and her husband came into hard times and
19 needed a car, so Mark arranged to finance them our 2000 SUV for
20 a fair price. Two weeks later they came into worse times and
21 her husband lost his job. That was nearly two years ago, and
22 my husband has never once asked them one question as to when we
23 will receive payment. That is my husband, Your Honor, not this
24 one bad decision he is caught up in. While he accepts
25 responsibility for his part in this offense, I beg of you to

1 please allow him to stay in our home while doing so so that he
2 can continue to provide and bless those of us who depend upon
3 him in so many ways. Please allow him to continue to be the
4 man that he really is and has always been for all of his life
5 and all of his career and not this one bad decision that got
6 him here today.

7 Please consider his whole life story and choices long
8 before and long after this offense and believe those of us who
9 really know and love the real Mark Longoria, those who sent in
10 their letters along with those of us who have spoken here
11 today.

12 Believe us when we tell you that he is the most
13 generous, honest, hard-working, taxpaying, God-fearing man who
14 accepted a plea almost a year ago after the FBI came knocking
15 on our door and already began his sentence as his life as a
16 felon plays out before his daughters, parents, myself and other
17 loved ones hugely effecting his career and personal life.
18 Please consider all of this along with his military service to
19 our country, no criminal record and this being his first-time
20 offense, Your Honor, and all of the help and service he
21 provides to the community and loved ones. And please consider
22 the upmost possible leniency on my husband and father of our
23 two daughters. Thank you for allowing me to speak, Your Honor.

24 MR. FORTNER: That's all, Your Honor.

25 THE COURT: Cross-examination.

1 MR. LAMARCA: I have a couple of questions.

2 THE COURT: Go right ahead.

3 **CROSS-EXAMINATION**

4 BY MR. LAMARCA:

5 Q Mrs. Longoria, you had mentioned something about accounts
6 being frozen. Do you recall that?

7 A Yes.

8 Q Can you explain what you mean by that?

9 A I'm talking about our personal, like, IRA, stuff like that,
10 our personal accounts.

11 Q When you say frozen, what do you mean, though?

12 A Like we got a letter from, like, for example, like, our
13 retirement accounts. Mark's retirement accounts, a letter
14 saying he can no longer trade with them and here is your money,
15 you have to --

16 Q Oh, I see. They weren't confiscated, just he was no longer
17 able to trade?

18 A Yes.

19 Q It was relinquished to you. Is that right?

20 A Yes.

21 Q All right. And then last, when the FBI came to see you
22 back in May of 2016, they had with them a letter. Is that
23 right?

24 A I believe so.

25 Q Advising that Mr. Longoria needed to get a lawyer?

1 A I'm not sure what the letter -- I couldn't remember. I
2 don't know what the letter said. We were told later we didn't
3 have to let them in the home, but at the time, we didn't know
4 and we let them in. But I don't remember what the letter said.

5 Q Thank you.

6 MR. LAMARCA: That's all, Your Honor.

7 MR. FORTNER: No redirect, Your Honor.

8 THE COURT: All right. Anything else you want to say?

9 THE WITNESS: I think I'm good. Thank you.

10 THE COURT: All right. Thank you. You can step down.

11 MR. FORTNER: Judge, just for scheduling purposes, my
12 client does have some allocution he wants to make. I'm not
13 sure if we want to actually put him on the witness stand or
14 not, but that would be the only other witness we might call.
15 So I don't know if you want to try to finish this tonight or if
16 you want us to come back.

17 THE COURT: No, no. We will take it up first thing in
18 the morning at 9:00. And then in the interim, you can discuss
19 with him whether he simply wants to make allocution or whether
20 he wishes to testify. And then that will give you a chance to
21 go over these matters with him during the course of the night.
22 So we will start back at 9:00 in the morning. I will see you
23 all then.

24 MR. FORTNER: Thank you.

25 MR. LAMARCA: Thank you, Your Honor.

1 (Hearing was recessed.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, BRENDA D. WOLVERTON, Official Court Reporter,
United States District Court, Southern District of
Mississippi, do hereby certify that the above and foregoing
pages contain a full, true and correct transcript of the
proceedings had in the aforementioned case at the time and
place indicated, which proceedings were recorded by me to
the best of my skill and ability.

I certify that the transcript fees and format
comply with those prescribed by the Court and Judicial
Conference of the United States.

This the 28THnd day of February, 2017.

s/ Brenda D. Wolverton
BRENDA D. WOLVERTON, RPR-CRR